



Queensland

# Aboriginal and Torres Strait Islander Land Holding Bill 2011





Queensland

# Aboriginal and Torres Strait Islander Land Holding Bill 2011

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# 2011

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## A Bill

for

**An Act to make ongoing provision for particular matters arising under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* and to repeal that Act, and to amend this Act, the *Aboriginal Cultural Heritage Act 2003*, the *Aboriginal Land Act 1991*, the *Environmental Protection Act 1994*, the *Foreign Ownership of Land Register Act 1988*, the *Land Act 1994*, the *Land Court Act 2000*, the *Mineral Resources Act 1989*, the *Survey and Mapping Infrastructure Act 2003*, the *Sustainable Planning Act 2009*, the *Sustainable Planning Regulation 2009*, the *Torres Strait Islander Cultural Heritage Act 2003*, the *Torres Strait Islander Land Act 1991*, the *Vegetation Management Act 1999*, the *Water Act 2000*, the *Water Supply (Safety and Reliability) Act 2008* and the *Wild Rivers Regulation 2007* for particular purposes**

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[s 1]

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<b>The Parliament of Queensland enacts—</b>	1
<b>Part 1 Preliminary</b>	2
<b>Division 1 Introduction</b>	3
<b>1 Short title</b>	4
This Act may be cited as the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> .	5 6
<b>2 Commencement</b>	7
This Act, other than part 11, divisions 2, 5, 6, 12, 15 and 16, commences on a day to be fixed by proclamation.	8 9
<b>3 Main object of Act</b>	10
The main object of this Act is—	11
(a) to provide a framework for identifying and satisfying entitlements to grants of leases that are outstanding under the old Land Holding Act, including by dealing with legal or practical obstacles to satisfying the entitlements; and	12 13 14 15 16
(b) to resolve boundary problems affecting particular old Act granted leases; and	17 18
(c) to the extent practicable, to apply the <i>Aboriginal Land Act 1991</i> or the <i>Torres Strait Islander Land Act 1991</i> to both old Act granted leases and new Act granted leases.	19 20 21
<b>4 Achieving Act's main object</b>	22
(1) Achieving this Act's main object includes the following —	23



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(a)	the identification of outstanding lease entitlements under the old Land Holding Act;	1 2
(b)	consultation, negotiation and agreement aimed at resolving legal or practical obstacles to satisfying lease entitlements;	3 4 5
(c)	consultation, negotiation and agreement aimed at resolving boundary problems affecting some old Act granted leases.	6 7 8
(2)	This Act allows for the deferral of the grant of a lease to satisfy a lease entitlement, having regard to the legal or practical obstacles that may be identified.	9 10 11
(3)	The purpose of a deferral is not to diminish a right to the grant of the lease, but is intended—	12 13
(a)	to allow the resolution of the obstacles to be considered by the Land Court; and	14 15
(b)	to ensure the grant, when made, is not affected by the obstacles in the way that would otherwise happen if there was a grant of the lease without an attempt at resolution.	16 17 18 19
<b>5</b>	<b>Approach adopted in applying ALA or TSILA</b>	20
(1)	This Act provides for the continuation of old Act granted leases and the granting of new Act granted leases, and for the conditions applying to the leases, in a way that—	21 22 23
(a)	takes account of rights and obligations under the old Land Holding Act; and	24 25
(b)	to the extent practicable, adopts the regime governing land and tenure management as provided for in ALA and TSILA.	26 27 28
(2)	This Act also provides for the return to each trust area of land divested from the area under the old Land Holding Act to ensure that land leased under the old Land Holding Act or this Act can be—	29 30 31 32
(a)	effectively administered as part of the trust area; and	33

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[s 6]

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	(b) otherwise dealt with substantially in accordance with ALA or TSILA as may be applicable, including, for example, by being included in land that becomes transferred land under ALA or TSILA.	1 2 3 4
	(3) In providing for the continuation of old Act granted leases and the granting of new Act granted leases, this Act provides for the application of ALA or TSILA to the leases to the extent practicable.	5 6 7 8
<b>6</b>	<b>Operation of Act</b>	9
	A right a person may have had under the old Land Holding Act to be granted a lease under that Act may be satisfied only in the form of a grant to satisfy a lease entitlement as provided for under this Act.	10 11 12 13
<b>7</b>	<b>Act binds all persons</b>	14
	(1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.	15 16 17
	(2) Nothing in this Act makes the State liable to be prosecuted for an offence.	18 19
<b>Division 2</b>	<b>Interpretation</b>	20
<b>8</b>	<b>Definitions</b>	21
	The dictionary in the schedule defines particular words used in this Act.	22 23
<b>9</b>	<b>Meaning of <i>lease entitlement</i> and <i>holder of lease entitlement</i></b>	24 25
	(1) A <i>lease entitlement</i> is an entitlement to be granted a lease on the basis of an approval that was granted under the old Land	26 27

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- Holding Act and in relation to which all of the following circumstances apply—
- (a) a person made an application under the old Land Holding Act to be granted a lease under the authority of that Act within a trust area (the *trust area* for the lease entitlement);
  - (b) the application for the lease was made on or after 15 June 1985 but on or before 20 December 1991;
  - (c) the application for the lease was exhibited in the way, and for the period, required under the old Land Holding Act, section 6(1)(a);
  - (d) either of the following has happened—
    - (i) the trustee council to which the application for the lease was made approved the granting of the lease to the applicant, whether or not notification of the approval was given under the old Land Holding Act, section 6(1)(b);
    - (ii) the appeal tribunal approved the granting of the lease to the applicant;
  - (e) the lease was never granted under the old Land Holding Act.
- (2) The *holder* of a lease entitlement is the person who, when the granting of the lease was approved under the old Land Holding Act, was the applicant under that Act for the grant.

**10 Meaning of *trust area* and *trustee***

- (1) A *trust area* is land that was at any time a trust area under the old Land Holding Act.
- (2) The *trustee*, of a trust area, is the entity that is—
  - (a) the land’s trustee under the Land Act; or
  - (b) if the land is or becomes transferred land under ALA or TSILA—the land trust or other entity that, under ALA or TSILA, holds the land.

[s 11]

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<b>Part 2</b>	<b>Granted leases and lease entitlements</b>	1 2
<b>Division 1</b>	<b>Change of unallocated State land status</b>	3 4
<b>11</b>	<b>Revesting of unallocated State land</b>	5
(1)	On the commencement of this section, all land within a trust area that, under the old Land Holding Act, section 10(1) or (2) divested from, or passed from the control of, an entity—	6 7 8
(a)	ceases to be unallocated State land; and	9
(b)	is revested in the trustee of the trust area in the same way it would have been vested if it had not been divested.	10 11 12
	<i>Example for paragraph (b)—</i>	13
	If the external boundaries of the trust area are the external boundaries of a deed of grant in trust under the Land Act, the land revested under this section becomes part of the deed of grant in trust land. If the deed of grant in trust land subsequently becomes transferred land under ALA or TSILA, the land revested under this section is included in the land that becomes transferred land.	14 15 16 17 18 19 20
(2)	The chief executive, or, if appropriate, the registrar, must make any necessary change in the appropriate register to record the operation of subsection (1).	21 22 23
<b>Division 2</b>	<b>Continuation of granted leases</b>	24
<b>12</b>	<b>Continuation of old Act granted leases</b>	25
(1)	This section applies if—	26
(a)	a lease was granted, or purportedly granted, in a trust area before the commencement of this section; and	27 28

- 
- (b) the grant was, or purported to be, under the authority of—
- (i) the old Land Holding Act; or
  - (ii) another Act, but with reference being made to the old Land Holding Act; or
  - (iii) the old Land Holding Act and another Act; and
- Example for paragraph (b)(iii)—*
- The wording of an instrument issued for the grant of a lease may have indicated that the lease was granted under both the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* and the *Land Act 1994*.
- (c) the lease was still in force, or purportedly still in force, immediately before the repeal of the old Land Holding Act.
- Example for paragraph (c)—*
- The lease was not surrendered before the repeal of the old Land Holding Act.
- (2) For this Act, the lease is an ***old Act granted lease***.
- (3) An old Act granted lease—
- (a) is taken to have been a validly granted lease from when it was granted or purportedly granted until the repeal of the old Land Holding Act; and
  - (b) for all purposes is taken to have been granted solely under the authority of the old Land Holding Act; and
  - (c) continues in force despite the repeal of the old Land Holding Act.
- (4) From the commencement of this section, the lessor of an old Act granted lease is taken to be—
- (a) the trustee of the trust area; or
  - (b) if the lease land is also the subject of a townsite lease under ALA or TSILA—the lessee under the townsite lease.

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- (5) If, under the old Land Holding Act, an old Act granted lease was granted as a lease in perpetuity, the lease continues as a lease granted in perpetuity and for the same purpose as the purpose for which the old Act granted lease was granted. 1  
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3  
4
- (6) If, under the old Land Holding Act, an old Act granted lease was granted as a lease for a term of years, the lease continues as a lease granted for the same term of years, and for the same purpose, as the term and purpose for which the old Act granted lease was granted. 5  
6  
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9
- (7) An old Act granted lease— 10
- (a) continues to be subject to— 11
- (i) conditions recorded on the instrument of lease for the old Act granted lease, not including, for a lease granted in perpetuity, any provisions providing, or purporting to provide, for the rent payable under the lease; and 12  
13  
14  
15  
16
- (ii) conditions provided for under part 4; and 17
- (b) as a continuing lease, is subject to the provisions of ALA or TSILA as provided for in part 5. 18  
19
- (8) The chief executive, or if appropriate, the registrar, may make any necessary change in the appropriate register to record the operation of this section, including to record this Act as the authority for the continuation of an old Act granted lease. 20  
21  
22  
23

## **Division 3                      Establishing lease entitlements** 24

### **13            Chief executive to publish lease entitlement notice** 25

- (1) The chief executive must publish notice in the gazette (the *lease entitlement notice* for a lease entitlement) of each lease entitlement having effect within a trust area and of which the chief executive is aware. 26  
27  
28  
29
- (2) A lease entitlement notice must include all information about the lease entitlement reasonably able to be included in the notice. 30  
31  
32

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- (3) Without limiting subsection (2), the notice must— 1
- (a) identify the trust area for the lease entitlement; and 2
  - (b) include the identification number of the original application, if known; and 3  
4
  - (c) identify the holder of the lease entitlement; and 5
  - (d) to the extent reasonably practicable, give a description of the lease entitlement land. 6  
7
- (4) The chief executive may publish a lease entitlement notice to correct or replace a lease entitlement notice currently in force on the basis of further or more accurate information obtained by the chief executive. 8  
9  
10  
11
- (5) If the chief executive is aware that the holder of a lease entitlement is deceased, the chief executive must include the information in the lease entitlement notice. 12  
13  
14
- (6) The chief executive may publish a lease entitlement notice for a lease entitlement only if the chief executive is satisfied about the existence of the lease entitlement. 15  
16  
17
- (7) The chief executive must take reasonable steps to make publicly available information about lease entitlement notices that are in force from time to time. 18  
19  
20
- 14 Application for publication of a lease entitlement notice 21**
- (1) A person (the *applicant*) may apply to the chief executive to publish a lease entitlement notice for a lease entitlement in a trust area. 22  
23  
24
  - (2) The applicant must give the chief executive information and documents in the applicant’s possession to identify the details of the lease entitlement, including its holder. 25  
26  
27
  - (3) If the applicant and the person identified as the holder of the lease entitlement are not the same person, the applicant must include with the application information to satisfy the chief executive that it is reasonable in the circumstances for the applicant to be making the application. 28  
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[s 15]

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- (4) The chief executive may ask the applicant for further information to support the application. 1  
2
- (5) The chief executive must decide the application, and advise the applicant of the decision, within— 3  
4
- (a) 3 months after the application was made; or 5
- (b) 3 months after the application was made together with the time taken by the applicant to give further information asked for under subsection (4). 6  
7  
8
- (6) The chief executive may grant the application only if the chief executive is satisfied about the existence of the lease entitlement as identified in the application. 9  
10  
11
- (7) If the chief executive grants the application, the chief executive must publish the lease entitlement notice. 12  
13
- (8) If the chief executive refuses the application, the chief executive must give a notice to the applicant advising of the refusal and include the chief executive's reasons for the decision to refuse. 14  
15  
16  
17
- 15 Appeal to Land Court against refusal to publish a lease entitlement notice** 18  
19
- (1) This section applies if, under section 14, the chief executive refuses an application to publish a lease entitlement notice, other than a lease entitlement notice correcting or replacing a lease entitlement notice currently in force. 20  
21  
22  
23
- (2) The applicant may appeal to the Land Court against the decision. 24  
25
- (3) The appeal must be started within 28 days after the applicant is given notice of the chief executive's decision to refuse the application. 26  
27  
28
- (4) The parties to the appeal are— 29
- (a) the applicant; and 30
- (b) the chief executive. 31



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- (5) If the Land Court decides that the lease entitlement notice should be published, the Land Court's decision must include the details of the lease entitlement to be included in the notice. 1  
2  
3
- (6) It is not necessary for the details mentioned in subsection (5) to be consistent in every respect with the details included in the application as dealt with by the chief executive. 4  
5  
6
- 16 Application for correction or replacement of a lease entitlement notice** 7  
8
- (1) A person (the *applicant*) may apply to the chief executive to publish a lease entitlement notice (a *new notice*) in the gazette to correct or replace a lease entitlement notice currently in force for a trust area because the lease entitlement notice does not accurately state the details of an existing lease entitlement. 9  
10  
11  
12  
13
- (2) The applicant must give the chief executive information and documents in the applicant's possession to identify the details of the new notice applied for. 14  
15  
16
- (3) If the applicant and the person identified, or proposed to be identified, as the holder of the lease entitlement under the corrected or replacement notice are not the same person, the applicant must include with the application information to satisfy the chief executive that it is reasonable in the circumstances for the applicant to be making the application. 17  
18  
19  
20  
21  
22
- (4) The chief executive may ask the applicant for further information to support the application. 23  
24
- (5) The chief executive must decide the application, and advise the applicant of the decision, within— 25  
26
- (a) 3 months after the application was made; or 27
- (b) 3 months after the application was made together with the time taken by the applicant to give further information asked for under subsection (4). 28  
29  
30
- (6) If the chief executive decides to grant the application, it is not necessary for the decision to provide for a correcting or replacement lease entitlement notice that is consistent in every respect with the details included in the application. 31  
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[s 17]

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- (7) However, the chief executive must be satisfied about the existence of the lease entitlement as identified, or proposed to be identified, in the lease entitlement notice as proposed to be corrected or replaced by the chief executive.
- (8) If the chief executive grants the application, the chief executive must publish a lease entitlement notice to correct or replace the existing lease entitlement notice.
- (9) If the chief executive refuses the application, or if the application is granted but the chief executive’s decision provides for a correcting or replacement notice inconsistent with the application, the chief executive must give a notice to the applicant advising of the decision and include the chief executive’s reasons for the decision.
- (10) If, under this section, the chief executive decides to publish a lease entitlement notice to correct or replace a lease entitlement notice currently in force—
- (a) the chief executive must as soon as practicable advise any person who the chief executive reasonably considers to be an affected person for the decision, including, for example, a person named in the lease entitlement notice proposed to be corrected or replaced; and
- (b) the notice to the affected person advising of the decision must include the chief executive’s reasons for the decision.
- 17 Appeal to Land Court against refusal to publish a lease entitlement notice correcting or replacing a notice**
- (1) This section applies if, under section 16, the chief executive decides an application from a person (the *applicant*) to publish a lease entitlement notice correcting or replacing a lease entitlement notice currently in force.
- (2) The applicant may appeal to the Land Court against the decision if—
- (a) the decision is to refuse the application; or

- 
- (b) the decision is to grant the application but in a way mentioned in section 16(9). 1  
2
- (3) If the decision is to grant the application, an affected person for the decision who was notified of the decision by the chief executive may appeal to the Land Court against the decision. 3  
4  
5
- (4) An appeal by the applicant or an affected person must be started within 28 days after the applicant or affected person is given notice of the chief executive's decision on the application. 6  
7  
8  
9
- (5) The parties to the appeal are— 10
- (a) the applicant; and 11
- (b) any affected person for the decision who was notified by the chief executive; and 12  
13
- (c) the chief executive. 14
- (6) If the appeal is by the applicant, the chief executive must advise the applicant and the Land Court of each person mentioned in subsection (5)(b) to ensure that each person may be served. 15  
16  
17  
18
- (7) If the Land Court decides that the correcting or replacement lease entitlement notice should be published, the Land Court's decision must include the details of the lease entitlement to be included in the lease entitlement notice as corrected or replaced. 19  
20  
21  
22  
23
- (8) It is not necessary for the details mentioned in subsection (7) to be consistent in every respect with the details included in the application as dealt with by the chief executive or in the chief executive's decision granting the application. 24  
25  
26  
27
- 18 Hardship cases** 28
- (1) The chief executive may give a person a certificate (a *hardship certificate*) under this section if the chief executive is satisfied all of the following circumstances apply— 29  
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[s 18]

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- (a) an application for a lease was made by an applicant under the old Land Holding Act on or after 15 June 1985 but on or before 20 December 1991;
  - (b) the trustee council to which application for the lease was made advised the applicant, or otherwise gave the applicant to understand, that the trustee council had approved the granting of the lease to the applicant, whether or not notification of the approval was given, or purportedly given, as provided for in the old Land Holding Act, section 6(1)(b);
  - (c) either or both of the following acted in reliance on the advice of the approval—
    - (i) the applicant;
    - (ii) if the applicant is deceased—an interested person in the estate of the deceased applicant;
  - (d) despite paragraph (b), the trustee council never lawfully approved, under the old Land Holding Act, the granting of the lease;
  - (e) if the trustee council had lawfully approved the granting of the lease, the chief executive would be authorised under this Act to publish a lease entitlement notice of a lease entitlement for the lease applied for.
- (2) The hardship certificate must—
- (a) identify the person who was the applicant; and
  - (b) to the extent reasonably practicable, give a description of the land that would have been the subject of the lease entitlement; and
  - (c) include the identification number of the original application, if known; and
  - (d) identify the person who is the recipient of the hardship certificate.

*Note—*

Under ALA, section 142(4) (Leases for private residential purposes—general conditions and requirements) and TSILA, section

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107(4) (Leases for private residential purposes—general conditions and requirements), the existence of a hardship certificate allows the chief executive under either of those Acts to decide a valuation methodology that results in a lease land value of nil.	1 2 3 4
(3) The chief executive may identify a person as the recipient of the hardship certificate if the chief executive is satisfied that the recipient would currently be entitled to be the lessee if the application had been lawfully approved and the lease granted.	5 6 7 8
(4) In identifying the recipient, the chief executive may have regard to the laws of succession.	9 10
<b>19 Surrenders</b>	11
(1) The holder of a lease entitlement may surrender the lease entitlement—	12 13
(a) completely; or	14
(b) to the extent of a part of the lease entitlement land.	15
(2) The surrender may be on the basis of the payment of an agreed consideration for the surrender.	16 17
(3) If the holder is deceased, the chief executive may accept a surrender with the agreement of persons who are interested persons in the estate of the deceased holder.	18 19 20
(4) If a lease entitlement is surrendered, the chief executive must notify in the gazette the cancellation of the lease entitlement notice for the lease entitlement.	21 22 23
(5) The publication of the notice ends the lease entitlement and no further action may be taken under this Act to satisfy the entitlement.	24 25 26

[s 20]

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<b>Part 3</b>	<b>Grants of leases to satisfy lease entitlements</b>	1 2
<b>Division 1</b>	<b>Introduction</b>	3
<b>20</b>	<b>Operation of pt 3</b>	4
(1)	This part establishes a process for satisfying lease entitlements by the granting of leases.	5 6
(2)	The circumstances of each lease entitlement are examined to find out if there are any legal or practical obstacles to the granting of a lease.	7 8 9
(3)	If there are no legal or practical obstacles identified, the Minister may grant a lease to satisfy the lease entitlement under division 3.	10 11 12
(4)	If there are legal or practical obstacles identified, the Minister may grant a lease to satisfy the lease entitlement under division 4, but only in accordance with a decision of the Land Court under the division.	13 14 15 16
<b>Division 2</b>	<b>Identifying obstacles to grant</b>	17
<b>21</b>	<b>What are legal or practical obstacles</b>	18
(1)	Without limiting what legal or practical obstacles to satisfying a lease entitlement may be identified under this Act, the following could be expected to be identified as obstacles—	19 20 21
(a)	that the location of the area of the lease entitlement land can not be clearly identified;	22 23
(b)	that the ownership of improvements on the lease entitlement land needs to be resolved.	24 25
(2)	However, the identification, or the need to obtain the agreement, of a person interested in the estate of a deceased	26 27

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holder of a lease entitlement is not a legal or practical obstacle to be identified under this Act.	1 2
<b>22 Minister refers lease entitlement notice to local advisory group or reference entity</b>	3 4
(1) As soon as practicable after a lease entitlement notice is published for a lease entitlement in a trust area, the Minister must refer the notice to—	5 6 7
(a) if there is a local advisory group for the trust area—the local advisory group; or	8 9
(b) otherwise—each reference entity for the lease entitlement.	10 11
(2) The local advisory group or reference entity may, within 3 months after the notice is referred to it—	12 13
(a) identify to the Minister any legal or practical obstacles it considers to exist to satisfying the lease entitlement; and	14 15
(b) give the Minister any advice or recommendation it considers appropriate for satisfying the lease entitlement.	16 17 18
<b>23 Minister advises of obstacles and gives statement of reasons</b>	19 20
(1) The Minister must consider any information, advice or recommendation given to the Minister by the local advisory group or reference entity under section 22 and prepare a statement (a <i>statement of reasons (obstacles)</i> ) about satisfying the lease entitlement.	21 22 23 24 25
(2) The statement of reasons (obstacles) must—	26
(a) identify, to the extent known—	27
(i) the legal or practical obstacles that exist to the granting of a lease to satisfy the lease entitlement; and	28 29 30
(ii) the affected persons for the obstacles; and	31

[s 24]

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- (b) explain the Minister’s reasons for identifying the obstacles and affected persons as provided for in paragraph (a). 1  
2  
3
  - (3) The Minister’s statement of reasons (obstacles) may, if appropriate, state that no legal or practical obstacles exist to satisfying the lease entitlement. 4  
5  
6
  - (4) The Minister must give the statement of reasons (obstacles) to each reference entity for the lease entitlement. 7  
8
  - (5) The Minister must take reasonable steps to make publicly available information about statements of reasons (obstacles) that are in effect from time to time. 9  
10  
11
- 24 Reference entity may appeal to Land Court** 12
- (1) This section applies if the Minister’s statement of reasons (obstacles) prepared under section 23 states that no legal or practical obstacles exist to satisfying the lease entitlement. 13  
14  
15
  - (2) A reference entity for the lease entitlement may appeal to the Land Court against the statement of reasons (obstacles). 16  
17
  - (3) The appeal must be started within 28 days after the reference entity is given the statement of reasons (obstacles). 18  
19
  - (4) The parties to the appeal are— 20
    - (a) each reference entity for the lease entitlement; and 21
    - (b) the Minister; and 22
    - (c) the holder of the lease entitlement, or, if the holder is deceased, the persons who are interested persons in the estate of the deceased holder. 23  
24  
25
  - (5) The Minister must take reasonable steps to ensure that persons who are parties under subsection (4)(c) are advised of the appeal, and that the Land Court is advised of who they are. 26  
27  
28
  - (6) The court must decide the appeal and may, if considered appropriate, order the Minister to change the statement of reasons (obstacles) in the way the court orders. 29  
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<b>25</b>	<b>Application about statement of reasons (obstacles)</b>	1
(1)	This section applies if—	2
(a)	a statement of reasons (obstacles) is currently in effect for a lease entitlement; and	3 4
(b)	the statement has not been the subject of an appeal to the Land Court under section 24; and	5 6
(c)	the statement identifies legal or practical obstacles; and	7
(d)	a person (the <i>relevant person</i> ) claims that there are no legal or practical obstacles to the grant of a lease to satisfy the lease entitlement; and	8 9 10
(e)	the relevant person is a proper applicant for the lease.	11
(2)	The relevant person may apply to the Minister for the statement of reasons (obstacles) to be amended to state that there are no legal or practical obstacles to the granting of a lease to satisfy the lease entitlement.	12 13 14 15
(3)	The Minister may ask the relevant person for further information to support the application.	16 17
(4)	The Minister must decide the application, and advise the relevant person of the decision, within—	18 19
(a)	28 days after the application was made; or	20
(b)	28 days after the application was made together with the time taken by the relevant person to give further information asked for under subsection (3).	21 22 23
(5)	If the Minister refuses to amend the statement of reasons (obstacles) in the way mentioned in subsection (2), the relevant person may appeal to the Land Court against the decision to refuse.	24 25 26 27
(6)	The appeal must be started within 28 days after the relevant person is given advice of the decision.	28 29
(7)	In deciding the appeal, the court must decide the appeal and may, if considered appropriate, order the Minister to change the statement of reasons (obstacles) in the way the court orders.	30 31 32 33

[s 26]

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(8) The parties to the appeal are—	1
(a) the relevant person; and	2
(b) the Minister; and	3
(c) each reference entity for the lease entitlement.	4
<b>Division 3</b>	
<b>Granting lease to satisfy lease entitlement if no obstacles to grant</b>	5 6
<b>26</b>	
<b>Minister may grant lease</b>	7
(1) The Minister may grant a lease in a trust area if—	8
(a) the lease is to satisfy a lease entitlement included in a lease entitlement notice currently in force; and	9 10
(b) the lease is granted to—	11
(i) the holder of the lease entitlement as identified in the lease entitlement notice whether or not the holder is deceased; or	12 13 14
(ii) if the holder is deceased, an interested person in the estate of the deceased person, as may be appropriate having regard to the laws of succession; and	15 16 17 18
(c) a statement of reasons (obstacles) stating that there are no legal or practical obstacles to granting the lease was given to each reference entity for the lease entitlement as required under this part, and—	19 20 21 22
(i) a reference entity did not, under this part, appeal to the Land Court about the correctness of the statement; or	23 24 25
(ii) a reference entity, under this part, appealed to the Land Court about the correctness of the statement and the court decided that there are no legal or practical obstacles to satisfying the lease entitlement.	26 27 28 29 30

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- (2) The lease granted must be— 1
- (a) if the lease entitlement relates to land not more than 1ha 2  
in area—a lease in perpetuity for a purpose decided by 3  
the Minister; or 4
- (b) otherwise—a lease for a term decided by the Minister 5  
for a purpose decided by the Minister. 6
- (3) In deciding a purpose or a term under subsection (2), the 7  
Minister must have regard to the lease entitlement notice. 8
- (4) The granting of the lease satisfies the lease entitlement and the 9  
lease entitlement notice ceases to be a lease entitlement notice 10  
currently in force. 11
- (5) Before granting a lease under this division, the Minister must 12  
notify the person to whom the Minister intends to grant the 13  
lease to satisfy the lease entitlement. 14
- (6) If the proposed grantee is the deceased holder, the notice 15  
under subsection (5), must, to the extent practicable, be given 16  
to interested persons in the estate of the deceased holder. 17
- 27 Application for grant of lease 18**
- (1) This section applies if— 19
- (a) a person considers that the Minister may under section 20  
26 grant a lease to satisfy a lease entitlement included in 21  
a lease entitlement notice currently in force; and 22
- (b) the Minister has not yet taken action to grant the lease; 23  
and 24
- (c) the person is a proper applicant for the lease. 25
- (2) The person may apply to the Minister for the grant of the 26  
lease. 27
- (3) If there is no statement of reasons (obstacles) currently in 28  
effect for the lease entitlement, the Minister must, within 28 29  
days after the Minister receives the application, take action 30  
under division 2 for the preparation of a statement of reasons 31  
(obstacles). 32

[s 28]

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|-----------|--|-----------------------|
| (4)       | If there is a statement of reasons (obstacles) currently in effect for the lease entitlement, the Minister must give the applicant a copy of the statement.  | 1<br>2<br>3           |
| (5)       | If there is a statement of reasons (obstacles) currently in effect for the lease entitlement and the statement has been decided by the Land Court under this part, the Minister must refuse to grant the lease under this division if the statement identifies legal or practical obstacles. | 4<br>5<br>6<br>7<br>8 |
| (6)       | If there is a statement of reasons (obstacles) currently in effect for the lease entitlement and the statement does not identify legal or practical obstacles, the Minister must—  | 9<br>10<br>11         |
| (a)       | advise the applicant that the Minister intends to grant the lease; and   | 12<br>13              |
| (b)       | grant the lease as soon as practicable.  | 14                    |
| <b>28</b> | <b>Consideration of application for grant of lease</b>   | 15                    |
| (1)       | This section applies to the Minister’s consideration of an application under section 27 for the grant of a lease to satisfy a lease entitlement.   | 16<br>17<br>18        |
| (2)       | The Minister may ask the applicant for further information to support the application.   | 19<br>20              |
| (3)       | The Minister must decide the application, and advise the applicant of the decision, within—  | 21<br>22              |
| (a)       | 28 days after the application was made; or   | 23                    |
| (b)       | 28 days after the application was made together with the time taken by the applicant to give further information asked for under subsection (2); or  | 24<br>25<br>26        |
| (c)       | if action is required to be taken for the preparation of a statement of reasons (obstacles) for the lease entitlement, 28 days after—  | 27<br>28<br>29        |
| (i)       | the period for appealing against the correctness of the statement ends; or   | 30<br>31              |
| (ii)      | if the statement is appealed—the finalisation of the appeal.   | 32<br>33              |

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<b>29</b>	<b>Refusal to grant lease</b>	1
(1)	If the Minister refuses an application for the grant of a lease under this division—	2 3
(a)	the notice to the applicant advising of the decision must include the Minister’s reasons for the decision to refuse; and	4 5 6
(b)	the applicant may appeal to the Land Court against the decision; and	7 8
(c)	the applicant must, in starting the appeal, give the Land Court a copy of the Minister’s reasons; and	9 10
(d)	the Minister must advise each reference entity for the lease entitlement the subject of the application of the starting of the appeal and give the reference entity a copy of the reasons mentioned in paragraph (c).	11 12 13 14
(2)	Despite subsection (1)(b), the applicant may not appeal against a decision to refuse to grant the lease if the Minister was required to refuse the application under section 27(5).	15 16 17
(3)	The appeal must be started within 28 days after the applicant is notified of the Minister’s refusal of the application.	18 19
(4)	If the appeal is successful, the Minister must proceed to grant the lease—	20 21
(a)	in compliance with the order of the Land Court; and	22
(b)	subject to paragraph (a)—as provided for in section 26.	23
(5)	The parties to the appeal are—	24
(a)	the applicant; and	25
(b)	the Minister; and	26
(c)	any reference entity for the lease entitlement.	27

[s 30]

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<b>Division 4</b>	<b>Granting lease to satisfy lease entitlement if obstacles to grant</b>	1 2
<b>Subdivision 1</b>	<b>Deferred grants generally</b>	3
<b>30</b>	<b>Minister may make deferred grant of lease</b>	4
(1)	The Minister may under this division make a grant (a <i>deferred grant</i> ) of a lease in a trust area to satisfy a lease entitlement included in a lease entitlement notice currently in force if, because of legal or practical obstacles stated in a statement of reasons (obstacles), the Minister can not make a grant under division 3 to satisfy the lease entitlement.	5 6 7 8 9 10
(2)	The Minister may make a deferred grant only in accordance with a decision of the Land Court under this division.	11 12
(3)	The granting of the lease satisfies the lease entitlement and the lease entitlement notice ceases to be a lease entitlement notice currently in force.	13 14 15
(4)	Other provisions of this division state requirements for making a deferred grant.	16 17
<b>Subdivision 2</b>	<b>Consultation or agreement before deferred grant</b>	18 19
<b>31</b>	<b>Purpose of sdiv 2</b>	20
	This subdivision states requirements that must be complied with before the Minister applies to the Land Court to make a deferred grant to satisfy a lease entitlement included in a lease entitlement notice currently in force.	21 22 23 24
<b>32</b>	<b>Reference to local advisory group</b>	25
(1)	This section applies if there is a local advisory group for the trust area for the lease entitlement.	26 27

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- (2) The Minister must refer to the group, for its consideration, the statement of reasons (obstacles) about satisfying the lease entitlement. 1  
2  
3
- (3) The group may give the Minister any advice or recommendation it considers appropriate about satisfying the lease entitlement, having regard to the statement of reasons (obstacles). 4  
5  
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7
- (4) The Minister must, to the extent necessary for the giving of advice or a recommendation under subsection (3), give the group access to copies of information and documents used in preparing the lease entitlement notice for the lease entitlement. 8  
9  
10  
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12
- 33 Persons to be consulted** 13
- (1) This section applies if the Minister is satisfied that there is a person who ought to be consulted about, or whose agreement is required, to the grant of a lease to satisfy the lease entitlement. 14  
15  
16  
17
- (2) Without limiting subsection (1), a person who ought to be consulted includes the holder of the lease entitlement or, if the holder is deceased, an interested person in the estate of the deceased holder. 18  
19  
20  
21
- (3) The Minister must consult with the person, or seek the person's agreement, before applying to make the deferred grant. 22  
23  
24
- 34 Location of lease** 25
- (1) This section applies if the statement of reasons (obstacles) identifies as an obstacle that the location of the lease entitlement land is unclear. 26  
27  
28
- (2) The Minister must seek to identify clear boundaries of a lease to be granted to satisfy the lease entitlement, and seek the agreement to the identified boundaries of any other person whose agreement is needed for the grant of a lease with those boundaries. 29  
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31  
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[s 35]

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<b>35</b>	<b>Ownership of improvements</b>	1
(1)	This section applies if the statement of reasons (obstacles) identifies as an obstacle that the ownership of an improvement on the lease entitlement land needs to be resolved.	2 3 4
(2)	The Minister must consult with any person having an interest in the improvement and seek to ensure that the grant of a lease to satisfy the lease entitlement, and that affects an interest in the improvement, happens with the agreement of any person having an interest in the improvement.	5 6 7 8 9
(3)	An agreement under subsection (2) may be an agreement for the sale of an improvement that is a dwelling considered by the housing chief executive to be social housing.	10 11 12
	<i>Note for subsection (3)—</i>	13
	Section 68 states requirements for deciding the value of the dwelling for the sale.	14 15

### **Subdivision 3      Application to Land Court** 16

<b>36</b>	<b>Application to Land Court in case of agreement</b>	17
(1)	The Minister may apply to the Land Court to make a deferred grant of a lease (an <i>agreed deferred grant</i> ) to satisfy a lease entitlement if the Minister considers all agreements necessary to support the making of the grant have been entered into.	18 19 20 21
(2)	The application must include the following—	22
(a)	details of the lease entitlement;	23
(b)	details of the proposed agreed deferred grant, including—	24 25
(i)	the proposed grantee of the lease; and	26
(ii)	the proposed boundaries of the lease;	27
(c)	a copy of the statement of reasons (obstacles) currently in effect for the lease entitlement;	28 29
(d)	a record of the consultation about the lease entitlement that took place under this division;	30 31



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- |           |  |                |
|-----------|--|----------------|
| (e)       | copies of all agreements that have been entered into, and that are the agreements necessary, to support the making of the grant; | 1<br>2<br>3    |
| (f)       | details about conditions that are—   | 4              |
|           | (i) to be complied with before the lease is granted; or  | 5              |
|           | (ii) to be imposed on the lease when it is granted;  | 6              |
| (g)       | information to the effect that the persons who have entered into agreements supporting the making of the grant—                  | 7<br>8<br>9    |
|           | (i) have received independent legal advice; or   | 10             |
|           | (ii) have advised they do not wish to obtain the advice;   | 11             |
| (h)       | a statement of reasons that includes an explanation of the proposed approach to satisfying the lease entitlement.                | 12<br>13<br>14 |
| <b>37</b> | <b>Decision of Land Court for agreed deferred grant</b>  | 15             |
| (1)       | The Land Court must decide the application.  | 16             |
| (2)       | In deciding the application, the court must decide whether the requirements of this division have been complied with.            | 17<br>18       |
| (3)       | The court may—   | 19             |
|           | (a) grant the application; or  | 20             |
|           | (b) refuse the application; or   | 21             |
|           | (c) refer the application back to the Minister with any order the court considers appropriate.                                   | 22<br>23       |
| (4)       | The parties to the proceeding before the Land Court are—   | 24             |
|           | (a) the Minister; and  | 25             |
|           | (b) the proposed grantee under the proposed agreed deferred grant; and   | 26<br>27       |
|           | (c) each party to an agreement supporting the making of the proposed agreed deferred grant; and                                  | 28<br>29       |
|           | (d) each reference entity for the lease entitlement.   | 30             |

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- 38 Application to Land Court in absence of agreement** 1
- (1) The Minister may apply to the Land Court to make a deferred 2  
grant of a lease (a *contested deferred grant*) to satisfy a lease 3  
entitlement if the Minister considers that not all agreements 4  
necessary to support the making of the grant have been 5  
entered into. 6
- (2) The application must include the following— 7
- (a) details of the lease entitlement; 8
- (b) details of the proposed contested deferred grant, 9  
including— 10
- (i) the proposed grantee of the lease; and 11
- (ii) the proposed boundaries of the lease; 12
- (c) a copy of the statement of reasons (obstacles) currently 13  
in effect for the lease entitlement; 14
- (d) a record of the consultation about the lease entitlement 15  
that took place under this division; 16
- (e) copies of any agreements that have been entered into to 17  
support the making of the grant; 18
- (f) details about proposed conditions that are— 19
- (i) to be complied with before the lease is granted; or 20
- (ii) to be imposed on the lease when it is granted; 21
- (g) information to the effect that the persons who have 22  
entered into agreements supporting the making of the 23  
grant— 24
- (i) have received independent legal advice; or 25
- (ii) have advised they do not wish to obtain the advice; 26
- (h) a statement of reasons (*statement of reasons (contested 27  
deferred grant*)) that includes an explanation of the 28  
proposed approach to satisfying the lease entitlement. 29
- (3) The statement of reasons (contested deferred grant) must 30  
include details of the persons whose agreement has not been 31  
obtained, but would be required, for the making of the 32

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proposed grant as an agreed deferred grant rather than as a contested deferred grant.	1 2
<b>39 Decision of Land Court for contested deferred grant</b>	3
(1) The Land Court must decide the application.	4
(2) In deciding the application, the court must decide—	5
(a) whether the requirements of this division have been complied with; and	6 7
(b) whether it is reasonable that the application be granted.	8
(3) The court may—	9
(a) grant the application, whether or not subject to conditions; or	10 11
(b) refuse the application; or	12
(c) make any order the court considers appropriate.	13
(4) The parties to the proceeding before the Land Court are—	14
(a) the Minister; and	15
(b) the proposed grantee under the proposed contested deferred grant; and	16 17
(c) each party to an agreement supporting the making of the proposed contested deferred grant; and	18 19
(d) all persons identified by the Minister in the statement of reasons (contested deferred grant) as persons whose agreement has not been obtained; and	20 21 22
(e) each reference entity for the lease entitlement.	23
<b>40 Compensation for grantee in circumstances of contested deferred grant</b>	24 25
(1) If an order of the Land Court, in a decision on an application for a contested deferred grant, provides for the granting of a lease over land that is to any extent different in area or location from the lease entitlement land, and the contested deferred grant will operate to the detriment of the proposed	26 27 28 29 30

[s 41]

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- grantee, the proposed grantee (the *applicant*) may apply to the Land Court for an order that the State pay an amount of compensation. 1  
2  
3
- (2) The Land Court must decide the application. 4
- (3) The amount of compensation the court may order must be only the amount reasonably necessary to compensate the applicant for— 5  
6  
7
- (a) the extent to which the value of the applicant’s interest in land or improvements has been decreased without a compensating increase in the value of the applicant’s interest in land or improvements; and 8  
9  
10  
11
- (b) expenses to be incurred by the applicant in taking practical measures needed because of the contested deferred grant. 12  
13  
14
- (4) An application under subsection (1) may be made as part of the proceeding for the Minister’s application to the court to make the contested deferred grant and must be made within 28 days, or a longer period approved by the court, after the court decides the application to make the contested deferred grant. 15  
16  
17  
18  
19  
20

## **Division 5                      New Act granted leases generally** 21

### **41            New Act granted leases** 22

- (1) The lessor of a new Act granted lease is— 23
- (a) the trustee of the trust area; or 24
- (b) if the lease land is also the subject of a townsite lease under ALA or TSILA—the lessee under the townsite lease. 25  
26  
27
- (2) A new Act granted lease is subject to— 28
- (a) conditions recorded on the instrument of lease on the granting of the lease; and 29  
30
- (b) the conditions provided for under part 4; and 31

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(c)	the provisions of ALA or TSILA as provided for in part 5.	1 2
<b>Part 4</b>	<b>Conditions and requirements applying to leases</b>	3 4
<b>Division 1</b>	<b>Conditions and requirements applying to leases other than term leases</b>	5 6 7
<b>42</b>	<b>Operation of div 1</b>	8
	This division states standard conditions and other requirements that apply to old Act granted leases and new Act granted leases, other than leases granted for a term of years.	9 10 11
<b>43</b>	<b>Dealings</b>	12
(1)	A lease may be transferred only to—	13
(a)	an Aborigine or Torres Strait Islander; or	14
(b)	a person who is not an Aborigine or Torres Strait Islander if the person is the spouse, or former spouse, of an Aborigine or Torres Strait Islander or of an Aborigine or Torres Strait Islander who is deceased.	15 16 17 18
(2)	A lease may be transferred only with the lessor’s prior written consent.	19 20
(3)	An interest under a lease, other than a mortgage of the lease, but including a sublease, may be created only with the lessor’s prior written consent.	21 22 23
(4)	The lessor must not unreasonably withhold consent under subsection (2) or (3).	24 25

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(5)	A lease may be mortgaged without the consent of the Minister or the lessor.	1 2
<b>44</b>	<b>Registration of dealings</b>	3
(1)	All leases and any sublease of a lease, and any transfer, amendment or surrender of a lease or sublease, must be registered in the appropriate register.	4 5 6
(2)	Despite the Land Title Act, section 65(2), an instrument of lease for a new Act granted lease, or a sublease of an old Act granted lease or new Act granted lease, must include a plan of survey identifying the land subject to the lease or sublease.	7 8 9 10
(3)	Subsection (2) does not apply to a sublease entered into only for an area completely within a building.	11 12
<b>45</b>	<b>Lease for residential purposes</b>	13
(1)	This section applies if, under a lease, land must be used primarily for residential purposes.	14 15
(2)	The lessee must ensure a private residential premises is built on the land—	16 17
(a)	for an old Act granted lease—within 8 years after the commencement of this section; or	18 19
(b)	for a new Act granted lease—within 8 years after the lease is granted.	20 21
(3)	The annual rental for the lease is the amount, of not more than \$1, decided by the lessor.	22 23
<b>46</b>	<b>Subleases</b>	24
(1)	A sublease of a lease may be transferred only with the prior written consent of the lessor and lessee of the lease.	25 26
(2)	The lessor and lessee must not unreasonably withhold consent under subsection (1).	27 28
(3)	A sublease of a lease may be amended only with the prior written consent of the lessor of the lease.	29 30

- 
- (4) The lessor must not unreasonably withhold consent under subsection (3). 1  
2
- (5) An amendment of a sublease must not— 3
- (a) increase or decrease the area subleased; or 4
  - (b) add or remove a party to the sublease; or 5
  - (c) be lodged for registration after the sublease’s term has ended. 6  
7
- (6) A sublease of a lease executed after the registration of a mortgage over the lease is valid as against the mortgagee only if the mortgagee agreed to the sublease before its registration. 8  
9  
10
- (7) An amendment of a sublease of a lease executed after the registration of a mortgage over the lease is valid as against the mortgagee only if the mortgagee agreed to the amendment before the registration of the document of amendment. 11  
12  
13  
14
- (8) An obligation applying to the lessee under a lease continues to apply to the lessee even if the lease is subleased. 15  
16
- (9) Subsection (8) does not stop the sublessee from agreeing, under the sublease, to fulfil the obligation for the lessor. 17  
18
- Example for subsections (8) and (9)—* 19
- A lessee’s obligation to ensure a private residential premises is built on lease land continues as the lessee’s obligation. However, the lessee and a sublessee may agree that the sublessee will build the premises. 20  
21  
22

**47 Surrenders** 23

- (1) The lessee of a lease may surrender all or part of the lease only if each of the following has given written agreement to the surrender— 24  
25  
26
- (a) the mortgagee of a registered mortgage of the lease or of an interest under the lease; 27  
28
  - (b) the holder of a sublease under the lease. 29
- (2) The lessee must notify the holder of a registered interest under the lease of the lessee’s intention to surrender the lease at least 28 days before the surrender takes effect. 30  
31  
32

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- (3) The surrender of a lease may be on the basis of the payment of 1  
an agreed consideration for the surrender. 2

## **Division 2                      Term leases** 3

### **48                      Entitlement to apply for lease under ALA or TSILA** 4

- (1) Subsections (2) and (3) apply to an old Act granted lease or a 5  
new Act granted lease, granted for a term of years, if the lease 6  
is— 7
- (a) over Aboriginal trust land in a trust area; or 8
  - (b) over transferred land under ALA in a trust area; or 9
  - (c) in force as a sublease of a townsite lease under ALA in a 10  
trust area. 11
- (2) The holder of the lease may, before the term of the lease has 12  
expired— 13
- (a) if subsection (1)(a) or (b) applies—apply to the trustee 14  
of the trust area to be granted a lease under ALA over 15  
the lease land for the old Act granted lease or new Act 16  
granted lease; or 17
  - (b) if subsection (1)(c) applies—apply to the lessee of the 18  
townsite lease to be granted a townsite sublease under 19  
ALA over the lease land for the old Act granted lease or 20  
new Act granted lease. 21
- (3) The application may be considered, and a lease or townsite 22  
sublease may be granted, under ALA. 23
- (4) Subsections (5) and (6) apply to an old Act granted lease or a 24  
new Act granted lease, granted for a term of years, if the lease 25  
is— 26
- (a) over Torres Strait Islander trust land in a trust area; or 27
  - (b) over transferred land under TSILA in a trust area; or 28
  - (c) in force as a sublease of a townsite lease under TSILA in 29  
a trust area. 30



- 
- (5) The holder of the lease may, before the term of the lease has expired— 1  
2
- (a) if subsection (4)(a) or (b) applies—apply to the trustee of the trust area to be granted a lease under TSILA over the lease land for the old Act granted lease or new Act granted lease; or 3  
4  
5  
6
- (b) if subsection (4)(c) applies—apply to the lessee of the townsite lease to be granted a townsite sublease under TSILA over the lease land for the old Act granted lease or new Act granted lease. 7  
8  
9  
10
- (6) The application may be considered, and a lease or townsite sublease may be granted, under TSILA. 11  
12

## **Part 5**                      **Application of provisions of ALA or TSILA**                      13 14

### **Division 1**                      **Applying ALA or TSILA**                      15

#### **49**      **ALA provisions**                      16

- (1) This section and division 2 apply to an old Act granted lease or a new Act granted lease, other than a lease granted for a term of years, if the lease is— 17  
18  
19
- (a) over Aboriginal trust land; or 20
- (b) over transferred land under ALA; or 21
- (c) in force as a sublease of a townsite lease under ALA. 22
- (2) ALA applies to the lease as provided for in division 2. 23
- (3) Despite subsection (2), a provision of ALA does not apply to the lease if it is in substance equivalent to, or inconsistent with, a provision of part 4 of this Act. 24  
25  
26

[s 50]

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(4)	If a provision of ALA is changed under division 2, the provision applies to the lease in the way changed.	1 2
<b>50</b>	<b>TSILA provisions</b>	3
(1)	This section and division 3 apply to an old Act granted lease or a new Act granted lease, other than a lease granted for a term of years, if the lease is—	4 5 6
(a)	over Torres Strait Islander trust land; or	7
(b)	over transferred land under TSILA; or	8
(c)	in force as a sublease of a townsite lease under TSILA.	9
(2)	TSILA applies to the lease as provided for in division 3.	10
(3)	Despite subsection (2), a provision of TSILA does not apply to the lease if it is in substance equivalent to, or inconsistent with, a provision of part 4 of this Act.	11 12 13
(4)	If a provision of TSILA is changed under division 3, the provision applies to the lease in the way changed.	14 15
<b>Division 2</b>	<b>Applying ALA</b>	16
<b>Subdivision 1</b>	<b>All land</b>	17
<b>51</b>	<b>Non-application of ALA, s 98 (Requirement for consultation)</b>	18 19
	To remove any doubt, it is declared that ALA, section 98 does not apply to a dealing affecting, including a dealing creating an interest in, a lease to which this division applies.	20 21 22
<b>52</b>	<b>Applying ALA, pt 10, div 6 (Forfeiture and renewal of residential leases)</b>	23 24
(1)	ALA, part 10, division 6, (other than part 10, division 6, subdivision 3) applies to a lease to which this division applies as if the lease were a residential lease under that division.	25 26 27

- 
- (2) Subsection (1) applies to the lease even if it is not granted for residential purposes. 1  
2
- (3) For applying ALA, section 149, a relevant condition is any condition of the lease as provided for in part 4 of this Act if the lessor reasonably considers a breach of the condition is of a serious nature and warrants forfeiture of the lease. 3  
4  
5  
6
- (4) For applying ALA, sections 150(2) and 152(1)(a), written notice must be given additionally to any person holding a sublease over the lease. 7  
8  
9
- (5) ALA, part 10, division 6, subdivision 4, must be applied not only to improvements of the lessee, but also to the holder, and improvements of the holder, of any sublease over the lease, and for that purpose, a reference in the subdivision to the lease land is a reference to the sublease. 10  
11  
12  
13  
14
- (6) Also, for applying ALA, part 10, division 6, subdivision 4, references to renewal of a lease may be ignored. 15  
16
- (7) For ALA, section 162(3), the valuation methodology to be used is the valuation methodology decided by the chief executive. 17  
18  
19

## **Subdivision 2      Aboriginal land** 20

### **53      Applying ALA, pt 14 (Provisions about mortgages of leases over Aboriginal land)** 21 22

- (1) ALA, part 14 applies to a lease to which this division applies if it is over Aboriginal land and was granted after the land became Aboriginal land. 23  
24  
25
- (2) For applying ALA, part 14, the lease is taken to be— 26
- (a) if the lease is in force as a sublease of a townsite lease under ALA—a townsite sublease as mentioned in ALA, section 180, definition *lease*, paragraph (b); or 27  
28  
29
- (b) otherwise—a standard lease as mentioned in ALA, section 180, definition *lease*, paragraph (a). 30  
31

[s 54]

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- (3) For applying ALA, section 182(7), the reference to a person who would be entitled to a grant of the lease is taken to be a reference to a person to whom, under this Act, the lease may be transferred.

### **Subdivision 3      Aboriginal trust land**

#### **54      Definition for sdiv 3**

In this subdivision—

*relevant lease* means a lease to which this division applies, but does not include a lease that, when it was granted, was granted over transferred land under ALA.

#### **55      Applying ALA, s 185 (Relationship with Land Act)**

ALA, section 185 applies for establishing—

(a) the relationship between the Land Act and this Act in relation to Aboriginal trust land and a relevant lease; and

(b) the status under the Land Act of a relevant lease;

in the same way it applies for establishing—

(c) the relationship between the Land Act and ALA in relation to Aboriginal trust land and a trustee (Aboriginal) lease; and

(d) the status under the Land Act of a trustee (Aboriginal) lease.

#### **56      Applying ALA, s 187 (Amending trustee (Aboriginal) lease)**

ALA, section 187 applies to a relevant lease as if the lease were a registered trustee (Aboriginal) lease.

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<b>57</b>	<b>Applying ALA, s 188 (Mortgage of trustee (Aboriginal lease))</b>	1 2
	(1) ALA, section 188 applies to a relevant lease.	3
	(2) The section applies to the lease as if—	4
	(a) the lease were a trustee (Aboriginal) lease; and	5
	(b) the reference in ALA, section 188(2)(a)(iii) to a person entitled under ALA to a grant of a lease were a reference to a person to whom under this Act the lease may be transferred.	6 7 8 9
<b>Division 3</b>	<b>Applying TSILA</b>	10
<b>Subdivision 1</b>	<b>All land</b>	11
<b>58</b>	<b>Non-application of TSILA, s 65 (Requirement for consultation)</b>	12 13
	To remove any doubt, it is declared that TSILA, section 65 does not apply to a dealing affecting, including a dealing creating an interest in, a lease to which this division applies.	14 15 16
<b>59</b>	<b>Applying TSILA, pt 8, div 6 (Forfeiture and renewal of leases for private residential purposes)</b>	17 18
	(1) TSILA, part 8, division 6 (other than part 8, division 6, subdivision 3) applies to a lease to which this division applies as if the lease were a residential lease under that division.	19 20 21
	(2) Subsection (1) applies to the lease even if it is not granted for residential purposes.	22 23
	(3) For applying TSILA, section 114, a relevant condition is any condition of the lease as provided for in part 4 of this Act if the lessor reasonably considers a breach of the condition is of a serious nature and warrants forfeiture of the lease.	24 25 26 27

[s 60]

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- (4) For applying TSILA, sections 115(2) and 117(1)(a), written notice must be given additionally to any person holding a registered interest over the lease. 1  
2  
3
- (5) TSILA, part 8, division 6, subdivision 4, must be applied not only to improvements of the lessee, but also to the holder, and improvements of the holder, of any sublease over the lease, and for that purpose, a reference in the subdivision to the lease land is a reference to the sublease. 4  
5  
6  
7  
8
- (6) Also, for applying TSILA, part 8, division 6, subdivision 4, references to renewal of a lease may be ignored. 9  
10
- (7) For TSILA, section 127(3), the valuation methodology to be used is the valuation methodology decided by the chief executive. 11  
12  
13

## **Subdivision 2      Torres Strait Islander land** 14

### **60      Applying TSILA, pt 10 (Provisions about mortgages of leases over Torres Strait Islander land)** 15 16

- (1) TSILA, part 10 applies to a lease to which this division applies if it is over Torres Strait Islander land and was granted after the land became Torres Strait Islander land. 17  
18  
19
- (2) For applying TSILA, part 10, the lease is taken to be— 20
  - (a) if the lease is in force as a sublease of a townsite lease under TSILA—a townsite sublease as mentioned in TSILA, section 136, definition *lease*, paragraph (b); or 21  
22  
23
  - (b) otherwise—a standard lease as mentioned in TSILA, section 136, definition *lease*, paragraph (a). 24  
25
- (3) For applying TSILA, section 138(7), the reference to a person who would be entitled to a grant of the lease is taken to be a reference to a person to whom, under this Act, the lease may be transferred. 26  
27  
28  
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<b>Subdivision 3</b>	<b>Torres Strait Islander trust land</b>	1
<b>61</b>	<b>Definition for sdiv 3</b>	2
	In this subdivision—	3
	<i>relevant lease</i> means a lease to which this division applies, but does not include a lease that, when it was granted, was granted over transferred land under TSILA.	4 5 6
<b>62</b>	<b>Applying TSILA, s 141 (Relationship with Land Act)</b>	7
	TSILA, section 141 applies for establishing—	8
	(a) the relationship between the Land Act and this Act in relation to Torres Strait Islander trust land and a relevant lease; and	9 10 11
	(b) the status under the Land Act of a relevant lease;	12
	in the same way it applies for establishing—	13
	(c) the relationship between the Land Act and TSILA in relation to Torres Strait Islander trust land and a trustee (Torres Strait Islander) lease; and	14 15 16
	(d) the status under the Land Act of a trustee (Torres Strait Islander) lease.	17 18
<b>63</b>	<b>Applying TSILA, s 143 (Amending trustee (Torres Strait Islander) lease)</b>	19 20
	TSILA, section 143 applies to a relevant lease as if the lease were a registered trustee (Torres Strait Islander) lease.	21 22
<b>64</b>	<b>Applying TSILA, s 144 (Mortgage of trustee (Torres Strait Islander) lease)</b>	23 24
	(1) TSILA, section 144 applies to a relevant lease.	25
	(2) The section applies to the lease as if—	26

[s 65]

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- (a) the lease were a trustee (Torres Strait Islander) lease; 1  
and 2
- (b) the reference in TSILA, section 144(2)(a)(iii) to a 3  
person entitled under TSILA to a grant of a lease were a 4  
reference to a person to whom under this Act the lease 5  
may be transferred. 6

## **Part 6                                      Ownership of structural 7 improvements 8**

### **65                      Ownership of improvements continues 9**

- (1) Subsection (3) applies to a structural improvement that is 10  
located on land that, on the commencement of this section, is 11  
lease land for an old Act granted lease. 12
- (2) Subsection (3) also applies to a structural improvement if— 13
  - (a) immediately before the commencement of this section, 14  
it was located on land that was the subject of an 15  
approval, under the old Land Holding Act, that a lease 16  
be granted for the land; and 17
  - (b) the approval is capable of forming the basis of a lease 18  
entitlement. 19
- (3) The ownership of the improvement is not affected by the 20  
repeal of the old Land Holding Act or the commencement of 21  
this Act. 22

### **66                      Agreement or arrangement for old Land Holding Act, s 15 23**

- (1) This section applies if, immediately before the 24  
commencement of the section, an agreement or arrangement 25  
for the purposes of the old Land Holding Act, section 15(1) 26  
existed for the purchase of an improvement. 27
- (2) For subsection (1), it does not matter— 28



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(a)	whether the price and the terms and conditions of the purchase were approved by the Governor in Council under the old Land Holding Act, section 15(1); or	1 2 3
(b)	whether the improvement is located on lease land for an old Act granted lease or on lease entitlement land.	4 5
(2)	The agreement or arrangement continues in force.	6
<b>67</b>	<b>Gazette notice for completed agreement or arrangement</b>	7
(1)	The chief executive may by gazette notice declare that—	8
(a)	the purchaser under an agreement or arrangement mentioned in section 66 has no obligation to pay any further amount under the agreement or arrangement; and	9 10 11 12
(b)	the agreement or arrangement may be taken to be completed; and	13 14
(c)	the purchaser is the owner of the improvement stated in the notice.	15 16
(2)	The chief executive may publish a gazette notice under subsection (1) only with the agreement of each the following—	17 18 19
(a)	the purchaser under the agreement or arrangement, or, if the purchaser is deceased, some or all of the persons who, in the reasonable opinion of the chief executive, are interested persons in the estate of the deceased purchaser;	20 21 22 23 24
(b)	the owner of the improvement the subject of the notice;	25
(c)	if the housing chief executive considers the improvement the subject of the notice is social housing—the housing chief executive.	26 27 28
(3)	The declaration has effect on the publication of the gazette notice.	29 30
(4)	It is not necessary that the improvement the subject of the gazette notice be the same as the improvement the subject of the agreement or arrangement mentioned in section 66.	31 32 33

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[s 68]

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<b>68</b>	<b>Use of valuation methodology for social housing dwelling</b>	1
(1)	This section applies if—	2
(a)	a dwelling is located on the lease land for an old Act granted lease, a new Act granted lease or a proposed new Act granted lease; and	3 4 5
(b)	the owner of the dwelling is—	6
(i)	the State; or	7
(ii)	the trustee of the trust area where the dwelling is located; or	8 9
(iii)	if the lease land is also the subject of a townsite lease under ALA or TSILA—the lessee under the townsite lease; and	10 11 12
(c)	the housing chief executive considers the dwelling to be social housing.	13 14
(2)	The owner of the dwelling may agree to sell the dwelling to a person who is or is to become the lessee under the lease.	15 16
(3)	The value of the dwelling for the sale is—	17
(a)	if in the trust area there is in operation a valuation methodology agreed under ALA, section 143(6) or TSILA, section 108(6)—the value decided by using the methodology; or	18 19 20 21
(b)	otherwise—the value decided by using the valuation methodology decided by the housing chief executive.	22 23
(4)	Subsection (3) does not apply if the value is decided by the Land Court in deciding an application for a contested deferred grant.	24 25 26

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<b>Part 7</b>	<b>Boundary relocations for particular old Act granted leases</b>	1 2 3
<b>69</b>	<b>Application of pt 7</b>	4
	This part applies if the Minister considers that it is not practicable for an old Act granted lease to continue to have its boundaries in their current location, having regard to circumstances that have arisen since the lease was originally granted.	5 6 7 8 9
<b>70</b>	<b>Reference to local advisory group</b>	10
(1)	This section applies if there is a local advisory group for the trust area in which the lease land for the old Act granted lease is located.	11 12 13
(2)	The Minister must refer the boundaries of the old Act granted lease to the group for its consideration.	14 15
(3)	The Minister must give the group access to copies of information and documents in the Minister's possession about the lease, including, if the lessee of the lease agrees, information or documents given to the Minister by the lessee.	16 17 18 19
(4)	The local advisory group—	20
	(a) must consult with the lessee; and	21
	(b) may consult with any other person it considers appropriate; and	22 23
	(c) may give the Minister any advice or recommendation it considers appropriate.	24 25
<b>71</b>	<b>Application to Land Court in case of agreement</b>	26
(1)	The Minister may apply to the Land Court for the relocation of the boundaries of the old Act granted lease (an <i>agreed boundary relocation</i> ) if the Minister considers all agreements	27 28 29

[s 72]

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- necessary to support the boundary relocation have been entered into. 1  
2
- (2) The application must include the following— 3
- (a) details of the lease as currently granted; 4
- (b) details of the proposed agreed boundary relocation, including— 5  
6
- (i) the boundaries of the lease as currently located; 7  
and 8
- (ii) the proposed boundaries of the lease; 9
- (c) a record of the consultation that took place under this part about the boundaries of the old Act granted lease; 10  
11
- (d) copies of all agreements that have been entered into, and that are the agreements necessary, to support the boundary relocation; 12  
13  
14
- (e) details about conditions that are to be complied with before or after the boundary relocation; 15  
16
- (f) information to the effect that the persons who have entered into agreements supporting the boundary relocation— 17  
18  
19
- (i) have received independent legal advice; or 20
- (ii) have advised they do not wish to obtain the advice; 21
- (g) a statement of reasons that includes an explanation of the proposed agreed boundary relocation. 22  
23
- 72 Decision of Land Court for agreed boundary relocation 24**
- (1) The Land Court must decide the application. 25
- (2) In deciding the application, the court must decide whether the requirements of this part have been complied with. 26  
27
- (3) The court may— 28
- (a) grant the application; or 29
- (b) refuse the application; or 30

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(c)	refer the application back to the Minister with any order the court considers appropriate.	1 2
(4)	The parties to the proceeding before the Land Court are—	3
(a)	the Minister; and	4
(b)	the lessee of the old Act granted lease; and	5
(c)	the lessor of the old Act granted lease; and	6
(d)	each party to an agreement supporting the proposed agreed boundary relocation.	7 8
<b>73</b>	<b>Application to Land Court in absence of agreement</b>	9
(1)	The Minister may apply to the Land Court for the relocation of the boundaries of the old Act granted lease (a <i>contested boundary relocation</i> ) if the Minister considers that not all agreements necessary to support the boundary relocation have been entered into.	10 11 12 13 14
(2)	The application must include the following—	15
(a)	details of the lease as currently granted;	16
(b)	details of the proposed contested boundary relocation, including—	17 18
(i)	the boundaries of the lease as currently located; and	19 20
(ii)	the proposed boundaries of the lease;	21
(c)	a record of the consultation that took place under this part about the boundaries of the old Act granted lease;	22 23
(d)	copies of any agreements that have been entered into to support the boundary relocation;	24 25
(e)	details about conditions that are to be complied with before or after the boundary relocation;	26 27
(f)	information to the effect that the persons who have entered into agreements supporting the boundary relocation—	28 29 30
(i)	have received independent legal advice; or	31

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[s 74]

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- (ii) have advised they do not wish to obtain the advice; 1
    - (g) a statement of reasons (*statement of reasons (contested boundary relocation)*) that includes an explanation of 2  
the proposed contested boundary relocation. 3  
4
  - (3) The statement of reasons (contested boundary relocation) 5  
must include details of the persons whose agreement has not 6  
been obtained, but would be required, to relocate the 7  
boundaries as proposed as an agreed boundary relocation 8  
rather than as a contested boundary relocation. 9
- 74 Decision of Land Court for contested boundary relocation** 10  
11
- (1) The Land Court must decide the application. 12
  - (2) In deciding the application, the court must decide— 13
    - (a) whether the requirements of this part have been 14  
complied with; and 15
    - (b) whether it is reasonable that the application be granted. 16
  - (3) The court may— 17
    - (a) grant the application, whether or not subject to 18  
conditions; or 19
    - (b) refuse the application; or 20
    - (c) make any order the court considers appropriate. 21
  - (4) The parties to the proceeding before the Land Court are— 22
    - (a) the Minister; and 23
    - (b) the lessee of the old Act granted lease; and 24
    - (c) the lessor of the old Act granted lease; and 25
    - (d) each party to an agreement supporting the proposed 26  
contested boundary relocation; and 27
    - (e) all persons identified by the Minister in the statement of 28  
reasons (contested boundary relocation) as persons 29  
whose agreement has not been obtained. 30

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<b>75</b>	<b>Compensation for lessee in circumstances of contested boundary relocation</b>	1 2
(1)	If an order of the Land Court, in a decision on an application for a contested boundary relocation, provides for a boundary relocation that will operate to the detriment of the lessee of the old Act granted lease, the lessee may apply to the Land Court for an order that the State pay an amount of compensation.	3 4 5 6 7
(2)	The Land Court must decide the application.	8
(3)	The amount of compensation the court may order must be only the amount reasonably necessary to compensate the applicant for—	9 10 11
(a)	the extent to which the value of the lessee’s interest in land or improvements has been decreased without a compensating increase in the value of the lessee’s interest in land or improvements; and	12 13 14 15
(b)	expenses to be incurred by the lessee in taking practical measures needed because of the contested boundary relocation.	16 17 18
(4)	An application under subsection (1) may be made as part of the proceeding for the Minister’s application to the court to make the contested boundary relocation and must be made within 28 days, or a longer period approved by the court, after the court decides the application to make the contested boundary relocation.	19 20 21 22 23 24
<b>76</b>	<b>Recording of boundary relocation</b>	25
(1)	The Minister must ensure that a plan of survey, capable of registration in a register kept under the Land Act or Land Title Act, is prepared and registered for the relocation of the boundaries of the lease as provided for in the order of the Land Court on an application under section 71 or 73.	26 27 28 29 30
(2)	The chief executive, or, as appropriate, the registrar, must make any necessary change in the appropriate register to record the relocation of the boundaries of the lease.	31 32 33
(3)	On the registration of the plan of survey—	34

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[s 77]

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- (a) the lessee's interest in any land that is not included within the relocated boundaries ceases; and 1  
2
- (b) the lease land for the old Act granted lease is the land within the relocated boundaries. 3  
4

## **Part 8 Local advisory groups** 5

### **77 Establishment** 6

- (1) The Minister may establish a local advisory group for a trust area that is the subject of 1 or more old Act granted leases or 1 or more lease entitlements. 7  
8  
9
  - (2) The local advisory group for a trust area must include— 10
    - (a) the chief executive or a representative; and 11
    - (b) the housing chief executive or a representative; and 12
    - (c) a representative of the trustee of the trust area. 13
  - (3) The local advisory group may invite persons, or representatives of persons, likely to be affected by matters for consideration by the local advisory group to participate in the group's consideration of the matters. 14  
15  
16  
17
- Example for subsection (3)—* 18
- native title parties 19

### **78 Functions** 20

- (1) A local advisory group has the functions given to it under this Act. 21  
22
- (2) Without limiting subsection (1), the main functions of the local advisory group for a trust area are to— 23  
24
  - (a) collate information on matters affecting lease entitlements, including information about areas affected by lease entitlements; and 25  
26  
27





[s 81]

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<b>81</b>	<b>Delegations</b>	1
(1)	The Minister may delegate the Minister’s powers under this Act as the Minister to the chief executive.	2 3
(2)	A delegation of the Minister’s power to the chief executive may permit the subdelegation of the power to an appropriately qualified public service officer.	4 5 6
(3)	The chief executive may delegate the chief executive’s powers under this Act as the chief executive to an appropriately qualified public service officer.	7 8 9
<b>82</b>	<b>Application to Land Court if no interested persons identified</b>	10 11
(1)	This section applies if the Minister is satisfied that—	12
(a)	either of the following is deceased—	13
(i)	the holder of a lease entitlement included in a lease entitlement notice currently in force;	14 15
(ii)	the lessee of an old Act granted lease; and	16
(b)	it has not been possible, after making enquiries that are reasonable in the circumstances, to identify any person who is currently an interested person in the estate of the deceased holder or lessee.	17 18 19 20
(2)	The Minister may apply to the Land Court for an order that—	21
(a)	the Minister has made all enquiries that are reasonable in the circumstances to identify interested persons; and	22 23
(b)	the lease entitlement or lease is ended, and converted into a right to compensation for its loss.	24 25
(3)	Compensation mentioned in subsection (2) may be claimed from the State, commenced by an application to the Minister, within—	26 27 28
(a)	3 years after the court’s order under the subsection; or	29
(b)	a later time approved by the Minister if the Minister considers an extension of time is reasonable in the circumstances.	30 31 32

- 
- (4) If the Minister and a person claiming compensation can not agree on the amount of compensation, the claimant may apply to the Land Court and the court may decide the amount of the compensation. 1  
2  
3  
4
- (5) For a lease entitlement, the compensation is the value of the lease, as at the date the claim is made to the Minister, that would have been granted to satisfy the lease entitlement if the holder had not been deceased. 5  
6  
7  
8
- (6) For an old Act granted lease, the compensation is the value of the lease, as at the date the claim is made to the Minister, if the lease had not ended. 9  
10  
11
- 83 Information Privacy Act does not stop sharing of information necessary for effective operation of this Act** 12  
13
- (1) IPA does not operate to stop the disclosure of personal information to the extent its disclosure is reasonably necessary to allow a person to participate effectively in consultation or negotiation about— 14  
15  
16  
17
- (a) the identification of a lease entitlement; or 18
- (b) satisfying a lease entitlement; or 19
- (c) relocating the boundaries of a lease; or 20
- (d) the ownership of improvements on land the subject of a lease entitlement or an old Act granted lease. 21  
22
- (2) In this section— 23
- disclose*, personal information, see IPA, section 23. 24
- IPA* means the *Information Privacy Act 2009*. 25
- personal information* means personal information under IPA. 26
- 84 Review of Act** 27
- (1) The Minister must, within 5 years after the commencement of this section, carry out a review of the operation and effectiveness of the Act. 28  
29  
30

[s 85]

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(2)	The Minister must, as soon as practicable after the review is completed, cause a report on the outcome to be laid before the Legislative Assembly.	1 2 3
<b>85</b>	<b>Approval of forms</b>	4
	The chief executive may approve forms for use under this Act.	5
<b>86</b>	<b>Regulation-making power</b>	6
(1)	The Governor in Council may make regulations under this Act.	7 8
(2)	A regulation may provide for fees payable under this Act and for matters for which they are payable.	9 10
<b>Part 10</b>	<b>Repeal and transitional provisions</b>	11 12
<b>87</b>	<b>Repeal</b>	13
	The Aborigines and Torres Strait Islanders (Land Holding) Act 1985, No. 41 is repealed.	14 15
<b>88</b>	<b>Continuation of proceeding</b>	16
(1)	This section applies if a proceeding was commenced under the old Land Holding Act, but not completed, before the commencement of this section.	17 18 19
(2)	The proceeding may be completed under the old Land Holding Act as if this Act had not commenced.	20 21

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<b>89</b>	<b>Effect of regulation amendment</b>	1
(1)	The amendment of a relevant regulation under this Act does not affect the Governor in Council’s power to further amend the regulation or to repeal it.	2 3 4
(2)	In this section—	5
	<i>relevant regulation</i> means—	6
(a)	the <i>Sustainable Planning Regulation 2009</i> ; or	7
(b)	the <i>Wild Rivers Regulation 2005</i> .	8
<b>Part 11</b>	<b>Amendment of Acts</b>	9
<b>Division 1</b>	<b>Amendment of this Act</b>	10
<b>90</b>	<b>Act amended</b>	11
	This division amends this Act.	12
<b>91</b>	<b>Amendment of long title</b>	13
	Long title, from ‘, and to amend’—	14
	<i>omit</i> .	15
<b>Division 2</b>	<b>Amendment of Aboriginal Cultural Heritage Act 2003</b>	16 17
<b>92</b>	<b>Act amended</b>	18
	This division amends the <i>Aboriginal Cultural Heritage Act 2003</i> .	19 20

[s 93]

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<b>93</b>	<b>Amendment of s 23 (Cultural heritage duty of care)</b>	1
(1)	Section 23(3)(a)(iv) and (v)—	2
	<i>renumber</i> as section 23(3)(a)(vi) and (vii).	3
(2)	Section 23(3)(a)(iii)—	4
	<i>omit, insert</i> —	5
	‘(iii) under a native title agreement that—	6
	(A) for a pre-amendment agreement—expressly	7
	or impliedly includes the Aboriginal cultural	8
	heritage as being subject to the agreement; or	9
	(B) for a post-amendment agreement—expressly	10
	includes the Aboriginal cultural heritage as	11
	being subject to the agreement; or	12
	(iv) under a cultural heritage agreement; or	13
	(v) under an existing agreement; or’.	14
<b>94</b>	<b>Amendment of s 24 (Unlawful harm to Aboriginal cultural heritage)</b>	15
(1)	Section 24(2)(a)(iv) to (vi)—	16
	<i>renumber</i> as section 24(2)(a)(vi) to (viii).	17
(2)	Section 24(2)(a)(iii)—	18
	<i>omit, insert</i> —	19
	‘(iii) under a native title agreement that—	20
	(A) for a pre-amendment agreement—expressly	21
	or impliedly includes the Aboriginal cultural	22
	heritage as being subject to the agreement; or	23
	(B) for a post-amendment agreement—expressly	24
	includes the Aboriginal cultural heritage as	25
	being subject to the agreement; or	26
	(iv) under a cultural heritage agreement; or	27
	(v) under an existing agreement; or’.	28
		29

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<b>95</b>	<b>Amendment of s 25 (Prohibited excavation, relocation and taking away)</b>	1 2
(1)	Section 25(2)(a)(iv) to (vi)— <i>renumber</i> as section 25(2)(a)(vi) to (viii).	3 4
(2)	Section 25(2)(a)(iii)— <i>omit, insert</i> —	5 6
	‘(iii) under a native title agreement that—	7
	(A) for a pre-amendment agreement—expressly or impliedly includes the Aboriginal cultural heritage as being subject to the agreement; or	8 9 10
	(B) for a post-amendment agreement—expressly includes the Aboriginal cultural heritage as being subject to the agreement; or	11 12 13
	(iv) under a cultural heritage agreement; or	14
	(v) under an existing agreement; or’.	15
<b>96</b>	<b>Amendment of s 26 (Unlawful possession of Aboriginal cultural heritage)</b>	16 17
(1)	Section 26(2)(a)(iv) to (vi)— <i>renumber</i> as section 26(2)(a)(vi) to (viii).	18 19
(2)	Section 26(2)(a)(iii)— <i>omit, insert</i> —	20 21
	‘(iii) under a native title agreement that—	22
	(A) for a pre-amendment agreement—expressly or impliedly includes the Aboriginal cultural heritage as being subject to the agreement; or	23 24 25
	(B) for a post-amendment agreement—expressly includes the Aboriginal cultural heritage as being subject to the agreement; or	26 27 28
	(iv) under a cultural heritage agreement; or	29
	(v) under an existing agreement; or’.	30

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[s 97]

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<b>97</b>	<b>Insertion of new pt 3, div 5</b>	1
	Part 3—	2
	<i>insert—</i>	3
<b>‘Division 5</b>	<b>Mediation</b>	4
<b>‘33A</b>	<b>Mediation of disputes about Aboriginal cultural heritage</b>	5
		6
	‘(1) This section applies if a dispute arises about Aboriginal cultural heritage, other than a dispute relating to the development of a cultural heritage management plan.	7
		8
		9
	<i>Example of a dispute for this section—</i>	10
	a dispute about the keeping place of a significant Aboriginal object	11
	‘(2) A party to the dispute may, with the agreement of the other parties to the dispute, ask the Land Court to mediate the dispute.	12
		13
		14
	‘(3) If in the opinion of the Land Court the dispute is suitable for mediation the Land Court may mediate the dispute.’.	15
		16
<b>98</b>	<b>Amendment of s 34 (Native title party for an area)</b>	17
	(1) Section 34(1)(b)(i), ‘failed’—	18
	<i>omit, insert—</i>	19
	‘been removed from the Register of Native Title Claims’.	20
	(2) Section 34(1)(b)(i)(A), ‘registered under’—	21
	<i>omit, insert—</i>	22
	‘removed from’.	23
<b>99</b>	<b>Insertion of new pt 5A</b>	24
	After section 51—	25
	<i>insert—</i>	26
<b>‘Part 5A</b>	<b>Cultural heritage agreements</b>	27



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<b>‘51A</b>	<b>Meaning of <i>cultural heritage agreement</i></b>	1
‘(1)	A <i>cultural heritage agreement</i> is an agreement—	2
	(a) relating to Aboriginal cultural heritage; and	3
	(b) entered into on or after 16 April 2004; and	4
	(c) between a person and—	5
	(i) for an agreement entered into before the commencement of this section—1 or more Aboriginal parties; or	6 7 8
	(ii) for an agreement entered into after the commencement of this section—	9 10
	(A) if there are 1 or more native title parties for the Aboriginal cultural heritage—all native title parties for the area; or	11 12 13
	(B) if there are no native title parties for the Aboriginal cultural heritage—at least 1 Aboriginal party for the area; and	14 15 16
	(d) all parties to which are at least 18 years.	17
‘(2)	However, a <i>cultural heritage agreement</i> does not include a cultural heritage management plan or a native title agreement.	18 19
<b>‘51B</b>	<b>Consultation about cultural heritage agreements</b>	20
	‘This part does not prevent the parties to a cultural heritage agreement from consulting on the agreement with persons who are under 18 years.	21 22 23
<b>‘51C</b>	<b>Record of cultural heritage agreements</b>	24
‘(1)	The sponsor for a cultural heritage agreement must keep a record of the following for the agreement—	25 26
	(a) the general terms of the agreement;	27
	(b) the Aboriginal cultural heritage the subject of the agreement;	28 29

[s 100]

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	(c) the identity of each party to the agreement;	1
	(d) acceptance of the agreement by each party to the agreement.	2 3
	‘(2) The record may be a written, audio or visual record of the agreement.’.	4 5
<b>100</b>	<b>Amendment of pt 6, div 5 hdg (Objections, hearing and recommendation)</b>	6 7
	Part 6, division 5, heading, ‘recommendation’—	8
	<i>omit, insert—</i>	9
	<b>‘decision’.</b>	10
<b>101</b>	<b>Amendment of s 78 (Land Court’s recommendation to Minister)</b>	11 12
	(1) Section 78, heading, ‘recommendation to Minister’—	13
	<i>omit, insert—</i>	14
	<b>‘decision’.</b>	15
	(2) Section 78(1)—	16
	<i>omit, insert—</i>	17
	‘(1) After the hearing has been completed, the Land Court must—	18
	(a) if the objection was to a recording of the findings of the cultural heritage study in the register—	19 20
	(i) confirm the recording of the findings of the study in the register; or	21 22
	(ii) order that the chief executive take the findings of the study out of the register; or	23 24
	(iii) order that the chief executive amend the findings recorded in the register in compliance with the order; or	25 26 27
	(b) if the objection was to a refusal to record the findings of the cultural heritage study in the register—	28 29

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(i)	confirm the refusal to record the findings of the study in the register; or	1 2
(ii)	order that the chief executive record the findings of the study in the register; or	3 4
(iii)	order that the chief executive record the findings of the study in the register after amendment of the findings in compliance with the order.’.	5 6 7
(3)	Section 78(2), ‘recommendation to the Minister’— <i>omit, insert</i> — ‘decision’.	8 9 10
(4)	Section 78(3), ‘recommendation to the Minister’— <i>omit, insert</i> — ‘decision’.	11 12 13
<b>102</b>	<b>Omission of pt 6, div 6 (Recording by Minister)</b> Part 6, division 6— <i>omit.</i>	14 15 16
<b>103</b>	<b>Amendment of s 86 (Application of div 2)</b> (1) Section 86(b), ‘unless’— <i>omit, insert</i> — ‘if’.	17 18 19 20
	(2) Section 86(b), ‘excluded from’— <i>omit, insert</i> — ‘included as’.	21 22 23
<b>104</b>	<b>Amendment of s 106 (Mediation)</b> Section 106, heading, after ‘Mediation’— <i>insert</i> —	24 25 26

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[s 105]

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	<b>‘of disputes delaying development of plan’.</b>	1
<b>105</b>	<b>Amendment of pt 7, div 6 hdg (Objection or referral, hearing and recommendation)</b>	2 3
	Part 7, division 6, heading, ‘recommendation’—	4
	<i>omit, insert</i> —	5
	<b>‘decision’.</b>	6
<b>106</b>	<b>Amendment of s 115 (Substantive requirements for objection or referral)</b>	7 8
	(1) Section 115(3)—	9
	<i>renumber</i> as section 115(4).	10
	(2) Section 115(2)—	11
	<i>omit, insert</i> —	12
	‘(2) The sponsor must give each other party to the objection or referral a copy of the document given to the Land Court under subsection (1).’	13 14 15
	‘(3) The Land Court must, for a referral, invite each other party to the referral to make a written submission to the Land Court about the plan and the sponsor’s submission on the plan.’.	16 17 18
	(3) Section 115(4), as renumbered, from ‘subsection (2)(b)’—	19
	<i>omit, insert</i> —	20
	‘subsection (3) only if the Land Court receives the submission within 30 days after the sponsor gives the copy of the document to the party under subsection (2).’.	21 22 23
<b>107</b>	<b>Amendment of s 117 (Land Court’s recommendation to Minister)</b>	24 25
	(1) Section 117, heading, ‘recommendation to Minister’—	26
	<i>omit, insert</i> —	27
	<b>‘decision’.</b>	28

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|--|----|
| (2) Sections 117(3) to (6)—  | 1  |
| <i>renumber</i> as section 117(4) to (7).                            | 2  |
| (3) Sections 117(1) and (2)—   | 3  |
| <i>omit, insert</i> —  | 4  |
| ‘(1) After the hearing has been completed or, if no hearing is held, | 5  |
| after the Land Court has considered the sponsor’s document           | 6  |
| and any submission properly received by the Land Court, the          | 7  |
| Land Court may decide to—  | 8  |
| (a) for an objection—  | 9  |
| (i) confirm the chief executive’s refusal to approve the             | 10 |
| cultural heritage management plan; or                                | 11 |
| (ii) reject the chief executive’s refusal to approve the             | 12 |
| cultural heritage management plan and approve the                    | 13 |
| cultural heritage management plan; or                                | 14 |
| (b) for a referral—  | 15 |
| (i) refuse to approve the cultural heritage management               | 16 |
| plan; or   | 17 |
| (ii) approve the cultural heritage management plan.                  | 18 |
| ‘(2) Also, the Land Court may decide to approve a cultural           | 19 |
| heritage management plan after amendment of the plan in              | 20 |
| compliance with the court’s decision.                                | 21 |
| ‘(3) The registrar of the Land Court must give the chief executive   | 22 |
| notice of the court’s decision under subsection (1) or (2).’.        | 23 |
| (4) Section 117(4), as renumbered under this section, ‘Subsection    | 24 |
| (2) does’—   | 25 |
| <i>omit, insert</i> —  | 26 |
| ‘Subsections (1) and (2) do’.  | 27 |
| (5) Section 117(4), as renumbered under this section,                | 28 |
| ‘recommendation to the Minister’—                                    | 29 |
| <i>omit, insert</i> —  | 30 |
| ‘decision about the plan’.   | 31 |
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[s 108]

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(6)	Section 117(5), as renumbered under this section, ‘(5) and (6)’—	1 2
	<i>omit, insert</i> —	3
	‘(6) and (7)’.	4
(7)	Section 117(6), as renumbered under this section, ‘a recommendation to the Minister’—	5 6
	<i>omit, insert</i> —	7
	‘its decision about the plan’.	8
(8)	Section 117(7), as renumbered under this section, ‘(4)’—	9
	<i>omit, insert</i> —	10
	‘(6)’.	11
<b>108</b>	<b>Amendment of s 118 (Reaching the recommendation)</b>	12
(1)	Section 118, heading, ‘recommendation’—	13
	<i>omit, insert</i> —	14
	‘ <b>decision</b> ’.	15
(2)	Section 118(1), from ‘To’ to ‘amendment,’—	16
	<i>omit, insert</i> —	17
	‘To approve the cultural heritage management plan, with or without amendment,’.	18 19
(3)	Section 118(4), ‘recommendation to the Minister’—	20
	<i>omit, insert</i> —	21
	‘decision’.	22
<b>109</b>	<b>Omission of s 119 (General time requirement for making recommendation)</b>	23 24
	Section 119—	25
	<i>omit</i> .	26

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<b>110</b>	<b>Omission of pt 7, div 7 (Approval by Minister)</b>	1
	Part 7, division 7—	2
	<i>omit.</i>	3
<b>111</b>	<b>Amendment of s 157 (Review of Act)</b>	4
	Section 157, ‘within 5 years of its commencement’—	5
	<i>omit, insert—</i>	6
	‘before 1 June 2022’.	7
<b>112</b>	<b>Insertion of new pt 11, div 1 hdg</b>	8
	Part 11, before section 161—	9
	<i>insert—</i>	10
<b>‘Division 1</b>	<b>Transitional provisions for Act No.</b>	11
	<b>79 of 2003’.</b>	12
<b>113</b>	<b>Omission of s 164 (Existing agreement for carrying out activity)</b>	13
	Section 164—	14
	<i>omit.</i>	15
<b>114</b>	<b>Insertion of new pt 11, div 2</b>	16
	After section 169—	17
	<i>insert—</i>	18
		19

[s 114]

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<b>‘Division 2</b>	<b>Transitional provisions inserted under Aboriginal and Torres Strait Islander Land Holding Act 2011</b>	1 2 3
<b>‘170</b>	<b>Definition for div 2</b>	4
	‘In this division—	5
	<i>commencement</i> means the commencement of this division.	6
<b>‘171</b>	<b>Previous objections to Land Court</b>	7
	‘(1) Subsection (2) applies to an objection—	8
	(a) made to the Land Court under section 76 before the commencement; and	9 10
	(b) not decided before the commencement.	11
	‘(2) Sections 78 and 79 as in force immediately before the commencement continue to apply to the objection.	12 13
	‘(3) Subsection (4) applies to an objection—	14
	(a) made to the Land Court under section 111 before the commencement; and	15 16
	(b) not decided before the commencement.	17
	‘(4) Sections 114 to 119 as in force immediately before the commencement continue to apply to the objection.	18 19
<b>‘172</b>	<b>Previous referral to Land Court</b>	20
	‘(1) This section applies to a referral—	21
	(a) made to the Land Court under section 112 or 113 before the commencement; and	22 23
	(b) not decided before the commencement.	24
	‘(2) Sections 114 to 119 as in force immediately before the commencement continue to apply to the referral.	25 26



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<b>‘173 Recommendations of the Land Court</b>	1
‘(1) Subsection (2) applies if the Minister receives a recommendation from the Land Court about an objection to which section 171(1) applies.	2 3 4
‘(2) Section 79 as in force immediately before the commencement continues to apply to the Minister for the objection.	5 6
‘(3) Subsection (4) applies if the Minister receives a recommendation from the Land Court about—	7 8
(a) an objection to which section 171(3) applies; or	9
(b) a referral to which section 172 applies.	10
‘(4) Section 120 as in force immediately before the commencement continues to apply to the Minister for the objection or referral.’.	11 12 13
<b>115 Amendment of sch 2 (Dictionary)</b>	14
(1) Schedule 2—	15
<i>insert—</i>	16
‘ <b><i>cultural heritage agreement</i></b> see section 51A.	17
<b><i>post-amendment agreement</i></b> means a native title agreement entered into after the commencement of this definition.	18 19
<b><i>pre-amendment agreement</i></b> means a native title agreement entered into before the commencement of this definition.’.	20 21
(2) Schedule 2, definition <i>approved cultural heritage management plan</i> , ‘by the chief executive or the Minister’—	22 23
<i>omit.</i>	24
(3) Schedule 2, definition <i>existing agreement</i> , ‘the commencement of this schedule’—	25 26
<i>omit, insert—</i>	27
‘16 April 2004’.	28
(4) Schedule 2, definition <i>sponsor</i> , paragraph (b), ‘means’—	29
<i>omit.</i>	30

[s 116]

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(5)	Schedule 2, definition <i>sponsor</i> —	1
	<i>insert</i> —	2
	‘(c) for a cultural heritage agreement—the person who accepts responsibility for the agreement.’.	3 4
<b>Division 3</b>	<b>Amendment of Aboriginal Land Act 1991</b>	5 6
<b>116</b>	<b>Act amended</b>	7
	This division amends the <i>Aboriginal Land Act 1991</i> .	8
<b>117</b>	<b>Amendment of s 45 (Existing interests)</b>	9
(1)	Section 45(2)(a)—	10
	<i>omit, insert</i> —	11
	‘(a) an old Act granted lease or a new Act granted lease under the new Land Holding Act; or’.	12 13
(2)	Section 45(2)—	14
	<i>insert</i> —	15
	‘(d) a lease in the form of a sublease, if it was granted under the <i>Aurukun and Mornington Shire Leases Act 1978</i> as a sublease of a lease mentioned in section 3(1) of that Act;’.	16 17 18 19
<b>118</b>	<b>Amendment of s 48 (Cancellation of leases over Aurukun and Mornington Shire lease lands)</b>	20 21
	Section 48—	22
	<i>insert</i> —	23
‘(3)	Despite the cancellation of a lease under this section, a lease in the form of a sublease, as mentioned in section 45(2)(d), continues in force as a lease under section 45, with the trustee of the Aboriginal land as the lessor.’.	24 25 26 27

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<b>119</b>	<b>Amendment of s 62 (Tribunal to notify making of claims)</b>	1
	Section 62(6), ‘(5)(a)’—	2
	<i>omit, insert</i> —	3
	‘(5)(b)’.	4
<b>120</b>	<b>Amendment of s 104 (Transfer of Aboriginal land)</b>	5
	Section 104(1)(c), ‘a CATSI’—	6
	<i>omit, insert</i> —	7
	‘to a CATSI’.	8
<b>121</b>	<b>Amendment of s 120 (Restrictions on grant of standard lease to an Aborigine)</b>	9
	Section 120(1), ‘standard’—	10
	<i>omit, insert</i> —	11
	‘a standard’.	12
<b>122</b>	<b>Amendment of s 132 (Lessee of townsite lease taken to be lessor of existing leases)</b>	13
	Section 132(1)(a)—	14
	<i>omit, insert</i> —	15
	‘(a) an old Act granted lease or a new Act granted lease under the new Land Holding Act;’.	16
<b>123</b>	<b>Amendment of s 142 (Leases for private residential purposes—general conditions and requirements)</b>	17
	Section 142—	18
	<i>insert</i> —	19
	‘(4) If the lessee is the recipient of a hardship certificate under the new Land Holding Act and the certificate has not previously been used under this section, the valuation methodology	20
		21
		22
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		26

[s 124]

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	decided by the chief executive under subsection (1)(a)(iii)(A)	1
	must be that the value of the lease land is nil, whether or not	2
	the land identified in the certificate is the same as the lease	3
	land.’.	4
<b>124</b>	<b>Amendment of s 146 (Lease, sublease and particular dealings to be registered)</b>	5
	Section 146(2), ‘land,’—	6
	<i>omit, insert</i> —	7
	‘land’.	8
<b>125</b>	<b>Amendment of s 147 (Definitions for div 6)</b>	9
(1)	Section 147, definition <i>lessor</i> , paragraph (b), ‘townsite sublease under which’—	10
	<i>omit, insert</i> —	11
	‘townsite lease under which’.	12
(2)	Section 147, definition <i>residential lease</i> , paragraph (a), ‘120(1)(a)(i)’—	13
	<i>omit, insert</i> —	14
	‘119(1)(a)(i)’.	15
(3)	Section 147, definition <i>residential lease</i> , paragraph (b), ‘135(2)(a)’—	16
	<i>omit, insert</i> —	17
	‘133(2)(a)’.	18
<b>126</b>	<b>Amendment of pt 12 hdg (Provision about particular claimable land)</b>	19
	Part 12, heading, ‘Provision’—	20
	<i>omit, insert</i> —	21
	‘ <b>Provisions</b> ’.	22
		23
		24
		25
		26
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<b>127</b>	<b>Amendment of sch 1 (Dictionary)</b>	1
	Schedule 1—	2
	<i>insert</i> —	3
	‘ <i>new Land Holding Act</i> means the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> .’.	4
		5
<b>Division 4</b>	<b>Amendment of Environmental Protection Act 1994</b>	6
		7
<b>128</b>	<b>Act amended</b>	8
	This division amends the <i>Environmental Protection Act 1994</i> .	9
<b>129</b>	<b>Amendment of s 38 (Who is an <i>affected person</i> for a project)</b>	10
		11
(1)	Section 38(2)(f), ‘section 87(2) or 87(4)(b) of that Act—a grantee’—	12
		13
	<i>omit, insert</i> —	14
	‘section 202(2) or (4)(b) of that Act—the trustee’.	15
(2)	Section 38(2)(i), ‘section 84(2) or 84(4)(b) of that Act—a grantee’—	16
		17
	<i>omit, insert</i> —	18
	‘section 151(2) of that Act—the trustee’.	19
(3)	Section 38(2)(j)—	20
		21
	<i>omit, insert</i> —	21
	‘(j) for land that, under the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> , is lease land for an old Act granted lease or a new Act granted lease—the lessee;’.	22
		23
		24
		25

[s 130]

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<b>130</b>	<b>Amendment of s 579 (Compensation)</b>	1
	Section 579(6), definition <i>owner</i> , paragraph (c)—	2
	<i>omit, insert—</i>	3
	‘(c) for land that, under the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> , is lease land for an old Act granted lease or a new Act granted lease—the lessee; or’.	4 5 6 7
<b>Division 5</b>	<b>Amendment of Foreign Ownership of Land Register Act 1988</b>	8 9
<b>131</b>	<b>Act amended</b>	10
	This division amends the <i>Foreign Ownership of Land Register Act 1988</i> .	11 12
<b>132</b>	<b>Amendment of s 4 (Interpretation)</b>	13
(1)	Section 4(1), definition <i>interest in land</i> , paragraph (p), ‘(other than an estate or interest referred to in paragraph (i))’—	14 15
	<i>omit.</i>	16
(2)	Section 4(1), definition <i>interest in land—</i>	17
	<i>insert—</i>	18
	‘(q) a carbon abatement interest under the <i>Land Act 1994</i> or <i>Land Title Act 1994</i> ; or	19 20
	(r) a covenant under the <i>Land Act 1994</i> or <i>Land Title Act 1994</i> ; or	21 22
	(s) a plantation licence under the <i>Forestry Act 1959</i> ; or	23
	(t) a profit a prendre under the <i>Land Act 1994</i> or <i>Land Title Act 1994</i> .’.	24 25

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<b>Division 6</b>	<b>Amendment of Land Act 1994</b>	1
<b>133 Act amended</b>		2
	This division amends the <i>Land Act 1994</i> .	3
<b>134 Amendment of s 155 (Length of term leases)</b>		4
(1) Section 155(5)(c)(ii)—		5
	<i>omit, insert—</i>	6
	‘(ii) if the Minister considers it is appropriate for there to be an indigenous cultural interest for all or part of the lease land—the lease land is subject to an indigenous cultural interest; and’.	7 8 9 10
(2) Section 155(5)(d)(ii)—		11
	<i>omit, insert—</i>	12
	‘(ii) the terms of the approved agreement for an indigenous cultural interest.’.	13 14
(3) Section 155(6)(e)—		15
	<i>omit, insert—</i>	16
	‘(e) the lease land is subject to an indigenous cultural interest;’.	17 18
(4) Section 155(6)(f)(ii)—		19
	<i>omit, insert—</i>	20
	‘(ii) the terms of the approved agreement for the indigenous cultural interest;’.	21 22
<b>135 Amendment of s 155B (Extensions for a term of up to 50 years)</b>		23 24
(1) Section 155B(1)(b)(ii)—		25
	<i>omit, insert—</i>	26

[s 136]

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(ii) if the Minister considers it is appropriate for there to be an indigenous cultural interest for all or part of the lease land—the lease land is subject to an indigenous cultural interest; and’.	1 2 3 4
(2) Section 155B(3)(c) and (d)—	5
<i>omit, insert—</i>	6
(c) the lessee has complied with the following for the lease land—	7 8
(i) any conservation agreement, or conservation covenant;	9 10
(ii) any approved agreement for an indigenous cultural interest; and	11 12
(d) the extension is appropriate, having regard to either or both of the following for the lease land—	13 14
(i) the terms of any conservation agreement or conservation covenant;	15 16
(ii) the terms of the approved agreement for an indigenous cultural interest.’.	17 18
<b>136 Amendment of s 155BA (Extensions for a term of up to 75 years)</b>	19 20
(1) Section 155BA(1)(b)(ii)—	21
<i>omit, insert—</i>	22
(ii) the lease land is subject to an indigenous cultural interest; and’.	23 24
(2) Section 155BA(3)(d)—	25
<i>omit, insert—</i>	26
(d) the lessee has complied with the approved agreement for any indigenous cultural interest for the lease land; and’.	27 28
(3) Section 155BA(3)(e)(ii)—	29
<i>omit, insert—</i>	30



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	‘(ii) the terms of the approved agreement for an indigenous cultural interest;’.	1 2
<b>137</b>	<b>Amendment of s 155D (When Minister may reduce)</b>	3
	Section 155D(1)(c)—	4
	<i>omit, insert—</i>	5
	‘(c) if the lease land was subject to an indigenous cultural interest when the lease was granted or extended—	6 7
	(i) the interest ceases to be in effect for the land; or	8
	(ii) the Minister considers the lessee has not complied with the terms of the approved agreement for the interest;’.	9 10 11
<b>138</b>	<b>Amendment of s 159 (General provisions for deciding application)</b>	12 13
	Section 159(1)(g)—	14
	<i>omit, insert—</i>	15
	‘(g) whether the lessee has complied with, or to what extent the lessee has complied with, the following—	16 17
	(i) the conditions of the lease;	18
	(ii) any land management agreement for the lease;	19
	(iii) any conservation agreement or conservation covenant applying to all or part of the lease land;	20 21
	(iv) any approved agreement for an indigenous cultural interest for the lease land;’.	22 23
<b>139</b>	<b>Insertion of new s 188A</b>	24
	Chapter 5, part 1, division 2—	25
	<i>insert—</i>	26

[s 139]

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<b>‘188A Limited rent discount for particular leases</b>	1
‘(1) The lessee for a relevant lease may apply to the Minister for a discount of 25% (the <i>discount</i> ) on the rent payable for the lease for a period of 5 years (the <i>discount period</i> ) if—	2 3 4
(a) the application is made before 1 July 2017; and	5
(b) the discount has not previously been approved for the lease.	6 7
‘(2) The Minister may approve the application if—	8
(a) the lease land is subject to an indigenous cultural interest; and	9 10
(b) the lessee has withdrawn from a native title claim made—	11 12
(i) by the indigenous party for the indigenous cultural interest; and	13 14
(ii) over the part of the lease land that is subject to the interest; and	15 16
(c) either—	17
(i) the lessee remains responsible for all costs associated with any public liability insurance the lessee requires the indigenous party for the indigenous cultural interest to hold; or	18 19 20 21
(ii) the lessee has waived, in writing, any requirement mentioned in subparagraph (i).	22 23
‘(3) If the Minister decides to approve the application, the discount applies to the lease for 5 years starting on the later of the following days—	24 25 26
(a) 1 July 2012;	27
(b) the first day of the next full rental period following the day of approval.	28 29
‘(4) However, if any of the following happen during the discount period, the discount ends—	30 31

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(a)	the indigenous cultural interest to which the lease land is subject ends;	1 2
(b)	the lessee becomes a respondent to a native title claim made—	3 4
(i)	by the indigenous party for the indigenous cultural interest; and	5 6
(ii)	over the part of the lease land that is subject to the interest;	7 8
(c)	the lessee requires the indigenous party for the indigenous cultural interest to be liable for costs associated with any public liability insurance relating to the interest.	9 10 11 12
‘(5)	In this section—	13
	<i>relevant lease</i> means a lease—	14
(a)	for rural leasehold land of 100ha or more; and	15
(b)	for a term of 20 years or more.’.	16
<b>140</b>	<b>Replacement of s 199A (Land may be used only for tenure’s purpose)</b>	17 18
	Section 199A—	19
	<i>omit, insert—</i>	20
<b>‘199A</b>	<b>Land may be used only for tenure’s purpose</b>	21
‘(1)	Licence land or permit land may be used only for the purpose for which the licence or permit was issued.	22 23
‘(2)	Lease land may be used only for—	24
(a)	the purpose for which the lease was originally issued; or	25
(b)	if the purpose is changed under section 154, the purpose of the lease as changed.	26 27
‘(3)	Lease land the subject of a term lease for pastoral purposes may be used only for agricultural or grazing purposes, or both.	28 29
‘(4)	Despite subsections (2) and (3)—	30

[s 141]

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- (a) the part of lease land the subject of a construction sublease may be used for the construction of an infrastructure facility, within the meaning of the *State Development and Public Works Organisation Act 1971*, section 125(16), or for the provision of transport services; and
- (b) lease land may be used under an approved agreement for an indigenous cultural interest for the lease land.’

**141 Insertion of new ss 202AA and 202AB**

Chapter 5, part 2, division 1—

*insert—*

**‘202AA Notice to transferee if lease land subject to indigenous cultural interest**

- ‘(1) This section applies if—
  - (a) a lease is transferred; and
  - (b) the lease land is subject to an indigenous cultural interest.
- ‘(2) The lease is subject to the condition that the lessee must, within 28 days after registration of the transfer, give written notice of the transfer, and the effect of section 373ZJ(2), to—
  - (a) if the approved agreement for the indigenous cultural interest is an indigenous access and use agreement—the indigenous parties for the interest; or
  - (b) if the approved agreement for the indigenous cultural interest is an indigenous land use agreement—
    - (i) the native title parties to the agreement, at their address as recorded in the Commonwealth ILUA register; and
    - (ii) the native title registrar.

**‘202AB Notice of indigenous cultural interest**

- ‘(1) This section applies if—

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(a)	a proposed sublease is to be over lease land; and	1
(b)	the lease land is subject to an indigenous cultural interest.	2 3
‘(2)	The lessee for the lease land must give the sublessee a copy of the approved agreement for the indigenous cultural interest at least 28 days before the start of the sublease.’.	4 5 6
<b>142</b>	<b>Amendment of s 325 (Effect of registration of transfer)</b>	7
	Section 325(3) to (5)—	8
	<i>omit.</i>	9
<b>143</b>	<b>Amendment of s 332 (Subleases require Minister’s approval)</b>	10 11
(1)	Section 332—	12
	<i>insert—</i>	13
‘(3A)	However, the Minister may approve a sublease that is a construction sublease only if the Minister is satisfied—	14 15
(a)	the lease land is not being acquired under an acquisition Act; and	16 17
(b)	the sublease is ancillary to the purpose for which adjacent land was acquired under an acquisition Act; and	18 19 20
(c)	having regard to the purpose of the sublease, the term of the sublease is temporary in nature; and	21 22
(d)	the sublease is subject to a condition that the sublessee must return the land to its original condition, or a condition that enhances the purpose of the lease, by the end of the sublease.’.	23 24 25 26
(2)	Section 332—	27
	<i>insert—</i>	28
‘(9)	In this section—	29

[s 144]

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	<i>acquisition Act</i> means this Act, the <i>Acquisition of Land Act 1967</i> or another Act providing for the compulsory acquisition of land.’.	1 2 3
<b>144</b>	<b>Amendment of s 333 (General authority to lessee for particular dealings)</b>	4 5
	Section 333—	6
	<i>insert—</i>	7
	‘(7) An authority to agree, or give effect, to a matter mentioned in subsection (1)(a) does not authorise the creation of a construction sublease if its purpose is inconsistent with—	8 9 10
	(a) the purpose for which the lease was originally issued; or	11
	(b) if the purpose is changed under section 154, the purpose of the lease as changed.’.	12 13
<b>145</b>	<b>Insertion of new ch 6, pt 4, div 8D</b>	14
	Chapter 6, part 4—	15
	<i>insert—</i>	16
<b>‘Division 8D</b>	<b>Indigenous cultural interests</b>	17
<b>‘Subdivision 1</b>	<b>Preliminary</b>	18
<b>‘373ZB Definitions for div 8D</b>		19
	‘In this division—	20
	<i>approved agreement</i> , for an indigenous cultural interest, means either of the following agreements if approved by the Minister under section 373ZC for the interest—	21 22 23
	(a) an indigenous access and use agreement;	24
	(b) an indigenous land use agreement.	25
	<i>indigenous access and use agreement—</i>	26

- 
- (a) means an agreement between a lessee and Aboriginal people or Torres Strait Islanders that allows the Aboriginal people or Torres Strait Islanders to carry out the following activities on the lease land as agreed to by the lessee and the Aboriginal people or Torres Strait Islanders—
- (i) activities for traditional purposes of the Aboriginal people or Torres Strait Islanders;
- Examples of activities for subparagraph (i)—*
- camping, fishing, gathering or hunting
  - performing rites or other ceremonies
  - visiting sites of significance
- (ii) activities incidental to an activity mentioned in subparagraph (i); and
- Examples of activities for subparagraph (ii)—*
- controlling pests
  - teaching rites or other ceremonies
  - preserving sites of significance
- (b) does not include an indigenous land use agreement.
- indigenous cultural interest***, for land, means an interest in the land that—
- (a) consists of the right to access and use the land under an approved agreement for the interest; and
- (b) is registered under this division, if the registration has not ended, and the interest has not been surrendered or removed from the appropriate register.
- indigenous land use agreement*** means an indigenous land use agreement recorded in the Commonwealth ILUA register.

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<b>‘Subdivision 2</b>	<b>Creation and registration</b>	1
<b>‘373ZC</b>	<b>Creation only by registration</b>	2
‘(1)	An indigenous cultural interest for land—	3
(a)	is created by registering the document creating the interest in the appropriate register; and	4 5
(b)	can not be created other than under this division.	6
‘(2)	An indigenous cultural interest for land must not be registered unless the indigenous access and use agreement, or the indigenous land use agreement, for the interest is approved by the Minister.	7 8 9 10
‘(3)	The Minister may approve the indigenous access and use agreement, or the indigenous land use agreement, only if—	11 12
(a)	the party to the agreement who is a lessee is proposing to have registered an indigenous cultural interest relating to the agreement; and	13 14 15
(b)	the Minister is satisfied the agreement complies with—	16
(i)	for an indigenous access and use agreement—the requirements stated in schedule 3, part 1; or	17 18
(ii)	for an indigenous land use agreement—the requirements stated in schedule 3, part 2.	19 20
‘(4)	The Minister’s approval may be given subject to conditions.	21
<b>‘373ZD</b>	<b>Requirements for registration</b>	22
‘(1)	The chief executive may register a document creating an indigenous cultural interest for land only if the document—	23 24
(a)	is validly executed; and	25
(b)	includes—	26
(i)	a description and map adequate to identify the part of the lease land the subject of the interest; and	27 28



- 
- (ii) the terms of the interest, including the right to access and use the land; and
    - (c) is accompanied by a copy of the Minister’s approval under section 373ZC.
  - ‘(2) This section does not limit the matters that the appropriate form for a document creating an indigenous cultural interest may require to be included in the document.

### **‘Subdivision 3 Amendments and dealings**

#### **‘373ZE Amending interest**

- ‘(1) An indigenous cultural interest may be amended only by registering a document amending the interest.
- ‘(2) However, the amendment can not—
  - (a) increase or decrease the area of the land the subject of the indigenous cultural interest; or
  - (b) add or remove a party to the interest.
- ‘(3) Also, if the amendment relates to an amendment or replacement of the approved agreement for the indigenous cultural interest, the amendment of the interest must be approved by the Minister before the document amending the interest is registered.
- ‘(4) The Minister may approve the amendment only if the Minister is satisfied the proposed amended agreement or replacement agreement complies with—
  - (a) for an indigenous access and use agreement—the requirements stated in schedule 3, part 1; or
  - (b) for an indigenous land use agreement—the requirements stated in schedule 3, part 2.
- ‘(5) The Minister’s approval may be given subject to conditions.

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<b>‘373ZF When amendment or replacement of approved agreement ends interest</b>	1 2
‘(1) Registration of an indigenous cultural interest ends if the approved agreement for the interest is amended or replaced and the Minister does not approve the change under section 373ZE.	3 4 5 6
‘(2) If an indigenous cultural interest ends under subsection (1), the chief executive must remove the interest from the appropriate register as soon as the chief executive becomes aware of its ending.	7 8 9 10
‘(3) No compensation is payable by the State for removal of the interest.	11 12
<b>‘373ZG Surrendering or removing interest</b>	13
‘(1) On lodgement of a document surrendering an indigenous cultural interest for land, the chief executive may register the surrender to the extent shown in the document.	14 15 16
‘(2) On registration of the document, the indigenous cultural interest is surrendered to the extent shown in the document.	17 18
‘(3) However, a document surrendering an indigenous cultural interest for land may be registered only with the approval of the Minister.	19 20 21
‘(4) The chief executive may remove an indigenous cultural interest for land from the appropriate register if—	22 23
(a) a request to remove the interest is lodged and the request establishes that an event on which the interest was intended to end has happened; or	24 25 26
(b) the chief executive receives a request to remove the interest under an Act of the Commonwealth.	27 28
<b>‘373ZH Notice of end of approved agreement</b>	29
‘(1) This section applies if an approved agreement for an indigenous cultural interest ends.	30 31

- 
- ‘(2) If the approved agreement is an indigenous access and use agreement, the lessee for the lease land subject to the indigenous cultural interest relating to the approved agreement must notify the Minister of the ending of the agreement within 10 business days of its ending.
- ‘(3) If the approved agreement is an indigenous land use agreement, the lessee for the lease land subject to the indigenous cultural interest must notify the Minister of the ending of the agreement within—
- (a) if the agreement ends because of a determination of native title—28 business days after the determination; or
- (b) otherwise—10 business days after the agreement ending.

### ‘373ZI Continuation of interest

- ‘(1) Subsection (2) applies if—
- (a) an indigenous cultural interest is removed from the leasehold land register because a lease ends; and
- (b) immediately before the lease ends, the lease land was subject to the interest.
- ‘(2) The relevant Minister for the land after the lease ends may give written approval for the interest to continue unless the land is freehold land.
- ‘(3) If an indigenous cultural interest is continued under subsection (2)—
- (a) the continuation must be recorded in the appropriate register; and
- (b) for this Act—
- (i) the State is taken to be a party to the approved agreement for the indigenous cultural interest in place of the lessee; and

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- (ii) the rights and responsibilities of the lessee under the approved agreement become the rights and responsibilities of the State; and
    - (c) this division continues to apply to the interest with necessary changes.
  - ‘(4) In this section—  
*relevant Minister*, for land, means—
    - (a) if the land is within a State forest, timber reserve or forest entitlement area—the Minister administering the *Forestry Act 1959*; or
    - (b) if the land is within a nature conservation area or specified national park—the Minister administering the *Nature Conservation Act 1992*; or
    - (c) if the land is unallocated State land, trust land or licence land—the Minister.
- ‘373ZJ Transfer of lease affecting interest**
- ‘(1) This section applies if—
    - (a) lease land is subject to an indigenous cultural interest; and
    - (b) a transfer of the lease for the lease land is registered.
  - ‘(2) For this Act—
    - (a) the transferee is taken to be a party to the approved agreement for the indigenous cultural interest in place of the transferor; and
    - (b) the rights and responsibilities of the transferor under the approved agreement become the rights and responsibilities of the transferee.

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<b>‘373ZK Reviewing approved agreements for indigenous cultural interests</b>	1 2
‘(1) The Minister may review the approved agreement for each indigenous cultural interest to assess—	3 4
(a) the compliance of the parties to the agreement with their obligations under the agreement; or	5 6
(b) whether the agreement has been changed or has ended.	7
‘(2) A lessee of land that is subject to an indigenous cultural interest must give the Minister a written report about the matters mentioned in subsection (1)—	8 9 10
(a) every 5 years after the creation of the interest; and	11
(b) if the lessee has been given a discount on the rent payable for the lease under section 188A—when requested by the Minister.’.	12 13 14
<b>146 Amendment of s 392 (Delegation by Minister)</b>	15
Section 392(4), ‘However, the’—	16
<i>omit, insert</i> —	17
‘Despite subsections (1) to (3), the’.	18
<b>147 Amendment of s 393 (Delegation by chief executive)</b>	19
Section 393(4A), ‘However’—	20
<i>omit, insert</i> —	21
‘Despite subsection (1)’.	22
<b>148 Amendment of sch 1A (Provisions that include mandatory conditions for tenures)</b>	23 24
Schedule 1A, entry for section 325(5)—	25
<i>omit</i> .	26

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<b>149</b>	<b>Insertion of new sch 3</b>	1
	After schedule 2—	2
	<i>insert—</i>	3
<b>‘Schedule 3</b>	<b>Requirements for approved agreements</b>	4
		5
	sections 373ZC(3)(b) and 373ZE(4)	6
<b>‘Part 1</b>	<b>Indigenous access and use agreements</b>	7
		8
1	The lease affected by the indigenous access and use agreement is for—	9 10
	(a) rural leasehold land; and	11
	(b) a term, including any extension of the lease that has been or may be granted under section 155A or 155B, of 20 or more years but no more than 50 years; and	12 13 14
	(c) lease land that is 100ha or more.	15
2	Native title has not been extinguished for the land the subject of the lease.	16 17
3	The parties to the indigenous access and use agreement are—	18
	(a) the lessee; and	19
	(b) the determined native title holders or registered native title claimants for the area.	20 21
4	The indigenous access and use agreement—	22
	(a) does not provide for the assigning, surrendering or extinguishing of native title over any part of the lease land; and	23 24 25

- 
- (b) does not provide for the validation of future acts within the meaning of the *Native Title Act 1993* (Cwlth), section 233; and
- (c) does not provide for the burial of human remains on the lease land by a party to the agreement mentioned in item 3(b), unless the party—
- (i) is a determined native title holder; and
- (ii) has the prior consent of the lessee and the chief executive; and
- (d) does not purport to prevent and would not be inconsistent with—
- (i) the establishment of a nature refuge under the *Nature Conservation Act 1992*; or
- (ii) a covenant, of a type mentioned in section 373A(4)(b) if the covenantee is the State, being registered; and
- (e) is not for a term less than the unexpired term of the lease, including any extension of the lease that may be granted under section 155A or 155B.
- 5 The area that is subject to the indigenous access and use agreement must include—
- (a) if the agreement requires the lessee to withdraw from a native title claim made by another party to the agreement—
- (i) all parts of the lease land relevant to the other party's native title claim; and
- (ii) any areas over which native title will be extinguished or the extinguished areas under a determination of native title; or
- (b) otherwise—all, or the part, of the lease land that is within the other party's determined or registered native title claim area under the *Native Title Act 1993* (Cwlth).

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- 6 The Minister considers the conditions for the exercise of traditional activities under the agreement are appropriate having regard to the following—
- (a) the types of traditional activities allowed under the agreement;
  - (b) the size of the area to which the agreement applies;
  - (c) the reasonableness of any restrictions imposed;
  - (d) another matter the Minister considers relevant.
- 7 If native title claim areas overlap on the lease land, the indigenous access and use agreement must exclude that part of the lease land where one native title claim overlaps another unless—
- (a) the agreement is entered into on behalf of more than one native title claim group; and
  - (b) the native title parties for the claims have agreed that the overlapping claim area is shared country for the purposes of the agreement; and
  - (c) the shared country is clearly described and identified on a map included in the agreement; and
  - (d) the nature and extent of the native title for the shared country, and the responsibilities of the native title parties for the shared country, are stated in the agreement.
- 8 If a party to the indigenous access and use agreement is a registered native title claimant for the area the subject of the agreement and the agreement includes conditions relating to the lessee withdrawing from that party's native title claim, the agreement must include conditions as follows for the purpose of a determination of native title—
- (a) the burial of human remains by the registered native title claimant must not take place on the lease land without the prior consent of the lessee and the chief executive;
  - (b) the lessee's rights and interests under the lease and the indigenous access and use agreement must be included as one of the interests under the determination;



- 
- (c) the areas identified as permanent exclusion areas under the indigenous access and use agreement are to be areas in which native title is, subject to the determination, validly extinguished.

## **‘Part 2**                      **Indigenous land use**    **agreements**

- 1 The lease affected by the indigenous land use agreement is for—
- (a) rural leasehold land; and
- (b) a term, including any extension of the lease that has been or may be granted under section 155A, 155B or 155BA, of 20 or more years but no more than 75 years; and
- (c) lease land that is 100ha or more.
- 2 Native title has not been extinguished for the land the subject of the lease.
- 3 The parties to the indigenous land use agreement are—
- (a) the lessee; and
- (b) the native title party for the part of the lease land subject to the agreement.
- 4 The indigenous land use agreement—
- (a) does not provide for the assigning, surrendering or extinguishing of native title over any part of the lease land; and
- (b) allows the native title party to carry out the following activities on the lease land—
- (i) activities for traditional purposes of the native title party;
- Examples of activities for subparagraph (i)—*

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• camping, fishing, gathering or hunting	1
• performing rites or other ceremonies	2
• visiting sites of significance	3
(ii) activities incidental to an activity mentioned in subparagraph (i); and	4 5
<i>Examples of activities for subparagraph (ii)—</i>	6
• controlling pests	7
• teaching rites or other ceremonies	8
• preserving sites of significance	9
(c) does not provide for the burial of human remains on the lease land by the native title party unless the native title party has the prior consent of the lessee and the chief executive; and	10 11 12 13
(d) does not purport to prevent and would not be inconsistent with—	14 15
(i) the establishment of a nature refuge under the <i>Nature Conservation Act 1992</i> ; or	16 17
(ii) a covenant, of a type mentioned in section 373A(4)(b) if the covenantee is the State, being registered; and	18 19 20
(e) is not for a term less than the unexpired term of the lease, including any extension of the lease that may be granted under section 155A, 155B or 155BA.	21 22 23
5 The area that is subject to the indigenous land use agreement must include—	24 25
(a) if the agreement requires the lessee to withdraw from a native title claim made by the native title party—	26 27
(i) all parts of the lease land relevant to that party's native title claim; and	28 29
(ii) any areas over which native title will be extinguished or the extinguished areas under a determination of native title; or	30 31 32

- 
- (b) otherwise—all, or the part, of the lease land that is  
within the native title party’s determined or registered  
native title claim area under the *Native Title Act 1993*  
(Cwlth).
- 6 The Minister considers the conditions for the exercise of  
traditional activities under the agreement are appropriate  
having regard to the following—
- (a) the types of traditional activities allowed under the  
agreement;
- (b) the size of the area to which the agreement applies;
- (c) the reasonableness of any restrictions imposed;
- (d) another matter the Minister considers relevant.
- 7 If native title claim areas overlap on the lease land, the  
indigenous land use agreement must exclude that part of the  
lease land where one native title claim overlaps another  
unless—
- (a) the agreement is entered into on behalf of more than one  
native title claim group; and
- (b) the native title parties for the claims have agreed that the  
overlapping claim area is shared country for the  
purposes of the agreement; and
- (c) the shared country is clearly described and identified on  
a map included in the agreement; and
- (d) the nature and extent of the native title for the shared  
country, and the responsibilities of the native title parties  
for the shared country, are expressed in the agreement.
- 8 If the agreement includes conditions relating to the lessee  
withdrawing from the native title party’s native title claim, the  
agreement must include conditions as follows for the purpose  
of a determination of native title—
- (a) burial of human remains by the native title party must  
not take place on the lease land without the prior  
consent of the lessee and the chief executive;

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- (b) the lessee's rights and interests under the lease and the indigenous land use agreement must be included as one of the interests under a determination; 1  
2  
3
- (c) the areas identified as permanent exclusion areas under the indigenous land use agreement are to be areas in which native title is, subject to the determination, validly extinguished.' 4  
5  
6  
7

**150 Amendment of sch 6 (Dictionary)** 8

(1) Schedule 6, definitions *ILUA register*, *indigenous access and use agreement* and *indigenous land use agreement*— 9  
10  
*omit.* 11

(2) Schedule 6— 12  
*insert*— 13  
*'approved agreement*, for an indigenous cultural interest, see section 373ZB. 14  
15

*Commonwealth ILUA register* means the Register of Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth). 16  
17  
18

*construction sublease* means a sublease or sub-sublease over all or part of lease land for the construction of an infrastructure facility, within the meaning of the *State Development and Public Works Organisation Act 1971*, section 125(16), or for the provision of transport services. 19  
20  
21  
22  
23

*determination of native title* see the *Native Title Act 1993* (Cwlth), section 225. 24  
25

*determined native title holders*, for an area, means the person or group of persons holding the common or group rights comprising native title in the area under a determination of native title. 26  
27  
28  
29

*indigenous access and use agreement* see section 373ZB. 30

*indigenous cultural interest* see section 373ZB. 31

*indigenous land use agreement* see section 373ZB. 32

- 
- indigenous party***, for an indigenous cultural interest, means— 1
- (a) if the approved agreement for the interest is an 2  
indigenous access and use agreement—the determined 3  
native title holders, or registered native title claimants, 4  
for the subject area who are a party to the agreement; or 5
- (b) if the approved agreement for the interest is an 6  
indigenous land use agreement—the native title party 7  
for the subject area who is a party to the agreement. 8
- native title*** see the *Native Title Act 1993* (Cwlth), section 223. 9
- native title claim*** means a claim in an application for a 10  
determination of native title made to the Federal Court under 11  
the *Native Title Act 1993* (Cwlth), section 13. 12
- native title claim area*** means an area that is the subject of a 13  
native title claim. 14
- native title claim group*** see the *Native Title Act 1993* (Cwlth), 15  
section 253. 16
- native title party*** see the *Native Title Act 1993* (Cwlth), 17  
section 253. 18
- registered native title claimant*** see the *Native Title Act 1993* 19  
(Cwlth), section 253. 20
- shared country*** means land that is subject to two or more 21  
native title claims. 22
- subject area***, for an indigenous cultural interest, means the 23  
area that is subject to the interest.’ 24

## **Division 7                      Amendment of Land Court Act 2000** 25

### **151      Act amended** 26

This division amends the *Land Court Act 2000*. 27

### **152      Amendment of s 32A (Indigenous assessors)** 28

(1) Section 32A(1), from ‘to perform functions’— 29

[s 153]

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<i>omit, insert—</i>	1
‘to perform functions for prescribed proceedings to which they are allocated.’	2 3
(2) Section 32A(4)—	4
<i>omit, insert—</i>	5
‘(4) An indigenous assessor who is allocated to a prescribed proceeding is an officer of the Land Court for the proceeding.’	6 7 8
<b>153 Amendment of s 32C (Allocation of indigenous assessor for a proceeding in the cultural heritage division)</b>	9 10
(1) Section 32C, heading, ‘for a proceeding in the cultural heritage division’—	11 12
<i>omit, insert—</i>	13
<b>‘for a prescribed proceeding’.</b>	14
(2) Section 32C(1), ‘to a proceeding of the Land Court in its cultural heritage division’—	15 16
<i>omit, insert—</i>	17
‘to a prescribed proceeding’.	18
(3) Section 32C(2), ‘to a proceeding in the cultural heritage division’—	19 20
<i>omit, insert—</i>	21
‘to a prescribed proceeding’.	22
<b>154 Amendment of s 32D (Role of indigenous assessor for a proceeding)</b>	23 24
(1) Section 32D, heading, ‘for a proceeding’—	25
<i>omit, insert—</i>	26
<b>‘for a prescribed proceeding’.</b>	27
(2) Section 32D(1), ‘for a proceeding in the Land Court in its cultural heritage division’—	28 29

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<i>omit, insert—</i>	1
‘for a prescribed proceeding’.	2
<b>155 Amendment of s 32J (Land Court has power of the Supreme Court for particular purposes)</b>	3
	4
(1) Section 32J(1)(c), second occurrence—	5
<i>renumber</i> as section 32J(1)(d).	6
(2) Section 32J(1)(d), as renumbered—	7
<i>insert—</i>	8
‘(iii) the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> .’.	9
	10
<b>156 Amendment of sch 2 (Dictionary)</b>	11
Schedule 2—	12
<i>insert—</i>	13
‘ <b><i>prescribed proceeding</i></b> , for part 2, division 6A, means a proceeding of the Land Court—	14
(a) in its cultural heritage division; or	15
(b) under the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> .’.	16
	17
	18
<b>Division 8 Amendment of Mineral Resources Act 1989</b>	19
	20
<b>157 Act amended</b>	21
This division amends the <i>Mineral Resources Act 1989</i> .	22
<b>158 Amendment of sch 2 (Dictionary)</b>	23
(1) Schedule 2, definition <i>owner</i> , paragraph (a)(v), ‘section 87(2) or 87(4)(b) of that Act—the grantees’—	24
	25

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<i>omit, insert—</i>	1	
‘section 202(2) or (4)(b) of that Act—the trustee’.	2	
(2) Schedule 2, definition <i>owner</i> , paragraph (a)(vi), ‘section 84(2) or 84(4)(b) of that Act—the grantees’—	3 4	
<i>omit, insert—</i>	5	
‘section 151(2) of that Act—the trustee’.	6	
(3) Schedule 2, definition <i>owner</i> , paragraph (f)—	7	
<i>omit, insert—</i>	8	
‘(f) for land that, under the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> , is lease land for an old Act granted lease or a new Act granted lease—the lessee; or’.	9 10 11 12	
(4) Schedule 2, definition <i>reserve</i> , paragraph (a)(iv), ‘section 87(2) or 87(4)(b)’—	13 14	
<i>omit, insert—</i>	15	
‘section 202(2) or (4)(b)’.	16	
(5) Schedule 2, definition <i>reserve</i> , paragraph (a)(v), ‘section 84(2) or 84(4)(b)’—	17 18	
<i>omit, insert—</i>	19	
‘section 151(2)’.	20	
<b>Division 9</b>	<b>Amendment of Survey and Mapping Infrastructure Act 2003</b>	21 22
<b>159 Act amended</b>		23
	This division amends the <i>Survey and Mapping Infrastructure Act 2003</i> .	24 25



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<b>160</b>	<b>Amendment of s 21 (Power to place a permanent survey mark)</b>	1
	Section 21(3)—	2
	<i>insert</i> —	3
	‘ <i>freehold land</i> includes indigenous land that is freehold land, and includes any part of the indigenous land that is subject to a lease or lesser interest.’	4
		5
		6
		7
<b>161</b>	<b>Amendment of schedule (Dictionary)</b>	8
	Schedule, definition <i>indigenous land</i> , ‘, for part 7,’—	9
	<i>omit</i> .	10
<b>Division 10</b>	<b>Amendment of Sustainable Planning Act 2009</b>	11
		12
<b>162</b>	<b>Act amended</b>	13
	This division amends the <i>Sustainable Planning Act 2009</i> .	14
<b>163</b>	<b>Amendment of sch 3 (Dictionary)</b>	15
	Schedule 3, definition <i>indigenous land</i> , paragraphs (a) to (e)—	16
	<i>omit, insert</i> —	17
	‘(a) the <i>Aurukun and Mornington Shire Leases Act 1978</i> ;	18
	(b) the <i>Aboriginal Land Act 1991</i> ;	19
	(c) the <i>Torres Strait Islander Land Act 1991</i> ;	20
	(d) the <i>Land Act 1994</i> .’	21
		22

[s 164]

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<b>Division 11</b>	<b>Amendment of Sustainable Planning Regulation 2009</b>	1 2
<b>164</b>	<b>Regulation amended</b>	3
	This division amends the <i>Sustainable Planning Regulation 2009</i> .	4 5
<b>165</b>	<b>Amendment of sch 3 (Assessable development, self-assessable development and type of assessment)</b>	6 7
	Schedule 3, part 1, table 3, item 1, column 2—	8
	<i>insert—</i>	9
	‘(l) is for implementing the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> .’.	10 11
<b>166</b>	<b>Amendment of sch 4 (Development that can not be declared to be development of a particular type—Act, section 232(2))</b>	12 13 14
	Schedule 4, table 3, item 2—	15
	<i>insert—</i>	16
	‘(j) is for implementing the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> .’.	17 18
<b>Division 12</b>	<b>Amendment of Torres Strait Islander Cultural Heritage Act 2003</b>	19 20
<b>167</b>	<b>Act amended</b>	21
	This division amends the <i>Torres Strait Islander Cultural Heritage Act 2003</i> .	22 23
<b>168</b>	<b>Amendment of s 23 (Cultural heritage duty of care)</b>	24
	(1) Section 23(3)(a)(iv) and (v)—	25

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<i>renumber</i> as section 23(3)(a)(vi) and (vii).	1
(2) Section 23(3)(a)(iii)—	2
<i>omit, insert</i> —	3
‘(iii) under a native title agreement that—	4
(A) for a pre-amendment agreement—expressly	5
or impliedly includes the Torres Strait	6
Islander cultural heritage as being subject to	7
the agreement; or	8
(B) for a post-amendment agreement—expressly	9
includes the Torres Strait Islander cultural	10
heritage as being subject to the agreement; or	11
(iv) a cultural heritage agreement; or	12
(v) an existing agreement; or’.	13
<b>169 Amendment of s 24 (Unlawful harm to Torres Strait</b>	14
<b>Islander cultural heritage)</b>	15
(1) Section 24(2)(a)(iv) to (vi)—	16
<i>renumber</i> as section 24(2)(a)(vi) to (viii).	17
(2) Section 24(2)(a)(iii)—	18
<i>omit, insert</i> —	19
‘(iii) under a native title agreement that—	20
(A) for a pre-amendment agreement—expressly	21
or impliedly includes the Torres Strait	22
Islander cultural heritage as being subject to	23
the agreement; or	24
(B) for a post-amendment agreement—expressly	25
includes the Torres Strait Islander cultural	26
heritage as being subject to the agreement; or	27
(iv) a cultural heritage agreement; or	28
(v) an existing agreement; or’.	29

[s 170]

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<b>170</b>	<b>Amendment of s 25 (Prohibited excavation, relocation and taking away)</b>	1
		2
(1)	Section 25(2)(a)(iv) to (vi)—	3
	<i>renumber</i> as section 25(2)(a)(vi) to (viii).	4
(2)	Section 25(2)(a)(iii)—	5
	<i>omit, insert</i> —	6
	‘(iii) under a native title agreement that—	7
	(A) for a pre-amendment agreement—expressly	8
	or impliedly includes the Torres Strait	9
	Islander cultural heritage as being subject to	10
	the agreement; or	11
	(B) for a post-amendment agreement—expressly	12
	includes the Torres Strait Islander cultural	13
	heritage as being subject to the agreement; or	14
	(iv) a cultural heritage agreement; or	15
	(v) an existing agreement; or’.	16
<b>171</b>	<b>Amendment of s 26 (Unlawful possession of Torres Strait Islander cultural heritage)</b>	17
		18
(1)	Section 26(2)(a)(iv) to (vi)—	19
	<i>renumber</i> as section 26(2)(a)(vi) to (viii).	20
(2)	Section 26(2)(a)(iii)—	21
	<i>omit, insert</i> —	22
	‘(iii) under a native title agreement that—	23
	(A) for a pre-amendment agreement—expressly	24
	or impliedly includes the Torres Strait	25
	Islander cultural heritage as being subject to	26
	the agreement; or	27
	(B) for a post-amendment agreement—expressly	28
	includes the Torres Strait Islander cultural	29
	heritage as being subject to the agreement; or	30

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(iv) a cultural heritage agreement; or	1
(v) an existing agreement; or’.	2
<b>172 Insertion of new pt 3, div 5</b>	3
Part 3—	4
<i>insert—</i>	5
<b>‘Division 5                    Mediation</b>	6
<b>‘33A Mediation of disputes about Torres Strait Islander cultural heritage</b>	7 8
‘(1) This section applies if a dispute arises about Torres Strait Islander cultural heritage, other than a dispute relating to the development of a cultural heritage management plan.	9 10 11
<i>Example of a dispute for this section—</i>	12
a dispute about the keeping place of a significant Torres Strait Islander object	13 14
‘(2) A party to the dispute may, with the agreement of the other parties to the dispute, ask the Land Court to mediate the dispute.	15 16 17
‘(3) If in the opinion of the Land Court the dispute is suitable for mediation the Land Court may mediate the dispute.’.	18 19
<b>173 Amendment of s 34 (Native title party for an area)</b>	20
(1) Section 34(1)(b)(i), ‘failed’—	21
<i>omit, insert—</i>	22
‘been removed from the Register of Native Title Claims’.	23
(2) Section 34(1)(b)(i)(A), ‘registered under’—	24
<i>omit, insert—</i>	25
‘removed from’.	26

[s 174]

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<b>174</b>	<b>Insertion of new pt 5A</b>	1
	After section 51—	2
	<i>insert—</i>	3
<b>‘Part 5A</b>	<b>Cultural heritage agreements</b>	4
<b>‘51A</b>	<b>Meaning of <i>cultural heritage agreement</i></b>	5
	‘(1) A <i>cultural heritage agreement</i> is an agreement—	6
	(a) relating to Torres Strait Islander cultural heritage; and	7
	(b) entered into on or after 16 April 2004; and	8
	(c) between a person and—	9
	(i) for an agreement entered into before the	10
	commencement of this section—1 or more Torres	11
	Strait Islander parties; or	12
	(ii) for an agreement entered into after the	13
	commencement of this section—	14
	(A) if there are 1 or more native title parties for	15
	the area to which the Torres Strait Islander	16
	cultural heritage relates—all native title	17
	parties for the area; or	18
	(B) if there are no native title parties for the area	19
	to which the Torres Strait Islander cultural	20
	heritage relates—at least 1 Torres Strait	21
	Islander party for the area; and	22
	(d) all parties to which are at least 18 years.	23
	‘(2) However, a <i>cultural heritage agreement</i> does not include a	24
	cultural heritage management plan or a native title agreement.	25
<b>‘51B</b>	<b>Consultation about cultural heritage agreements</b>	26
	‘This part does not prevent the parties to a cultural heritage	27
	agreement from consulting on the agreement with persons	28
	who are under 18 years.	29

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<b>‘51C Record of cultural heritage agreements</b>	1
‘(1) The sponsor for a cultural heritage agreement must keep a record of the following for the agreement—	2
(a) the general terms of the agreement;	3
(b) the Torres Strait Islander cultural heritage the subject of the agreement;	4
(c) the identity of each party to the agreement;	5
(d) acceptance of the agreement by each party to the agreement.	6
‘(2) The record may be a written, audio or visual record of the agreement.’.	7
	8
	9
	10
	11
<b>175 Amendment of pt 6, div 5 hdg (Objections, hearing and recommendation)</b>	12
Part 6, division 5, heading, ‘recommendation’—	13
<i>omit, insert—</i>	14
‘ <b>decision</b> ’.	15
	16
<b>176 Amendment of s 78 (Land Court’s recommendation to Minister)</b>	17
(1) Section 78, heading, ‘recommendation to Minister’—	18
<i>omit, insert—</i>	19
‘ <b>decision</b> ’.	20
(2) Section 78(1)—	21
<i>omit, insert—</i>	22
‘(1) After the hearing has been completed, the Land Court must—	23
(a) if the objection was to a recording of the findings of the cultural heritage study in the register—	24
(i) confirm the recording of the findings of the study in the register; or	25
	26
	27
	28

[s 177]

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(ii)	order that the chief executive take the findings of the study out of the register; or	1 2
(iii)	order that the chief executive amend the findings recorded in the register in compliance with the order; or	3 4 5
(b)	if the objection was to a refusal to record the findings of the cultural heritage study in the register—	6 7
(i)	confirm the refusal to record the findings of the study in the register; or	8 9
(ii)	order that the chief executive record the findings of the study in the register; or	10 11
(iii)	order that the chief executive record the findings of the study in the register after amendment of the findings in compliance with the order.’.	12 13 14
(3)	Section 78(2), ‘recommendation to the Minister’— <i>omit, insert</i> — ‘decision’.	15 16 17
(4)	Section 78(3), ‘recommendation to the Minister’— <i>omit, insert</i> — ‘decision’.	18 19 20
<b>177</b>	<b>Omission of pt 6, div 6 (Recording by Minister)</b>	21
	Part 6, division 6—	22
	<i>omit.</i>	23
<b>178</b>	<b>Amendment of s 86 (Application of div 2)</b>	24
(1)	Section 86(b), ‘unless’— <i>omit, insert</i> — ‘if’.	25 26 27
(2)	Section 86(b), ‘excluded from’—	28



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<i>omit, insert—</i>	1
‘included as’.	2
<b>179 Amendment of s 106 (Mediation)</b>	3
Section 106, heading, after ‘Mediation’—	4
<i>insert—</i>	5
‘of disputes delaying development of plan’.	6
<b>180 Amendment of pt 7, div 6 hdg (Objection or referral, hearing and recommendation)</b>	7
Part 7, division 6, heading, ‘recommendation’—	8
<i>omit, insert—</i>	9
‘decision’.	10
<b>181 Amendment of s 115 (Substantive requirements for objection or referral)</b>	11
(1) Section 115(3)—	12
<i>renumber</i> as section 115(4).	13
(2) Section 115(2)—	14
<i>omit, insert—</i>	15
‘(2) The sponsor must give each other party to the objection or referral a copy of the document given to the Land Court under subsection (1).’	16
‘(3) The Land Court must, for a referral, invite each other party to the referral to make a written submission to the Land Court about the plan and the sponsor’s submission on the plan.’.	17
(3) Section 115(4), as renumbered, from ‘subsection (2)(b)’—	18
<i>omit, insert—</i>	19
‘subsection (3) only if the Land Court receives the submission within 30 days after the sponsor gives the copy of the document to the party under subsection (2).’.	20
	21
	22
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[s 182]

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<b>182</b>	<b>Amendment of s 117 (Land Court’s recommendation to Minister)</b>	1 2
(1)	Section 117, heading, ‘recommendation to Minister’— <i>omit, insert—</i> <b>‘decision’.</b>	3 4 5
(2)	Section 117(3) to (6)— <i>renumber</i> as section 117(4) to (7).	6 7
(3)	Sections 117(1) and (2)— <i>omit, insert—</i>	8 9
‘(1)	After the hearing has been completed or, if no hearing is held, after the Land Court has considered the sponsor’s document and any submission properly received by the Land Court, the Land Court may decide to—	10 11 12 13
(a)	for an objection—	14
(i)	confirm the chief executive’s refusal to approve the cultural heritage management plan; or	15 16
(ii)	reject the chief executive’s refusal to approve the cultural heritage management plan and approve the cultural heritage management plan; or	17 18 19
(b)	for a referral—	20
(i)	refuse to approve the cultural heritage management plan; or	21 22
(ii)	approve the cultural heritage management plan.	23
‘(2)	Also, the Land Court may decide to approve a cultural heritage management plan after amendment of the plan in compliance with the court’s decision.	24 25 26
‘(3)	The registrar of the Land Court must give the chief executive notice of the court’s decision under subsection (1) or (2).’.	27 28
(4)	Section 117(4), as renumbered under this section, ‘Subsection (2) does’— <i>omit, insert—</i>	29 30 31

---

‘Subsections (1) and (2) do’.	1
(5) Section 117(4), as renumbered under this section, ‘recommendation to the Minister’—	2 3
<i>omit, insert</i> —	4
‘decision about the plan’.	5
(6) Section 117(5), as renumbered under this section, ‘(5) and (6)’—	6 7
<i>omit, insert</i> —	8
‘(6) and (7)’.	9
(7) Section 117(6), as renumbered under this section, ‘a recommendation to the Minister’—	10 11
<i>omit, insert</i> —	12
‘its decision about the plan’.	13
(8) Section 117(7), as renumbered under this section, ‘(4)’—	14
<i>omit, insert</i> —	15
‘(6)’.	16
<b>183 Amendment of s 118 (Reaching the recommendation)</b>	17
(1) Section 118, heading, ‘recommendation’—	18
<i>omit, insert</i> —	19
‘ <b>decision</b> ’.	20
(2) Section 118(1), from ‘To’ to ‘amendment,’—	21
<i>omit, insert</i> —	22
‘To approve the cultural heritage management plan, with or without amendment,’.	23 24
(3) Section 118(4), ‘recommendation to the Minister’—	25
<i>omit, insert</i> —	26
‘decision’.	27

[s 184]

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<b>184</b>	<b>Omission of s 119 (General time requirement for making recommendation)</b>	1
	Section 119—	2
	<i>omit.</i>	3
		4
<b>185</b>	<b>Omission of pt 7, div 7 (Approval by Minister)</b>	5
	Part 7, division 7—	6
	<i>omit.</i>	7
<b>186</b>	<b>Amendment of s 157 (Review of Act)</b>	8
	Section 157, ‘within 5 years of its commencement’—	9
	<i>omit, insert—</i>	10
	‘before 1 June 2022’.	11
<b>187</b>	<b>Insertion of new pt 10, div 1 hdg</b>	12
	Part 10, before section 160—	13
	<i>insert—</i>	14
<b>‘Division 1</b>	<b>Transitional provisions for Act No. 80 of 2003’.</b>	15
		16
<b>188</b>	<b>Omission of s 162 (Existing agreement for carrying out activity)</b>	17
	Section 162—	18
	<i>omit.</i>	19
		20
<b>189</b>	<b>Insertion of new pt 10, div 2</b>	21
	After section 167—	22
	<i>insert—</i>	23

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<b>‘Division 2</b>	<b>Transitional provisions inserted under Aboriginal and Torres Strait Islander Land Holding Act 2011</b>	1 2 3
<b>‘168</b>	<b>Definition for div 2</b>	4
	‘In this division—	5
	<i>commencement</i> means the commencement of this division.	6
<b>‘169</b>	<b>Previous objections to Land Court</b>	7
	‘(1) Subsection (2) applies to an objection—	8
	(a) made to the Land Court under section 76 before the commencement; and	9 10
	(b) not decided before the commencement.	11
	‘(2) Sections 78 and 79 as in force immediately before the commencement continue to apply to the objection.	12 13
	‘(3) Subsection (4) applies to an objection—	14
	(a) made to the Land Court under section 111 before the commencement; and	15 16
	(b) not decided before the commencement.	17
	‘(4) Sections 114 to 119 as in force immediately before the commencement continue to apply to the objection.	18 19
<b>‘170</b>	<b>Previous referral to Land Court</b>	20
	‘(1) This section applies to a referral—	21
	(a) made to the Land Court under 112 or 113 before the commencement; and	22 23
	(b) not decided before the commencement.	24
	‘(2) Sections 114 to 119 as in force immediately before the commencement continue to apply to the referral.	25 26

[s 190]

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<b>‘171 Recommendations of the Land Court</b>	1
‘(1) Subsection (2) applies if the Minister receives a recommendation from the Land Court about an objection to which section 169(1) applies.	2 3 4
‘(2) Section 79 as in force immediately before the commencement continues to apply to the Minister for the objection.	5 6
‘(3) Subsection (4) applies if the Minister receives a recommendation from the Land Court about—	7 8
(a) an objection to which section 169(3) applies; or	9
(b) a referral to which section 170 applies.	10
‘(4) Section 120 as in force immediately before the commencement continues to apply to the Minister for the objection or referral.’.	11 12 13
<b>190 Amendment of schedule (Dictionary)</b>	14
(1) Schedule—	15
<i>insert—</i>	16
‘ <b><i>cultural heritage agreement</i></b> see section 51A.	17
<b><i>post-amendment agreement</i></b> means a native title agreement entered into after the commencement of this definition.	18 19
<b><i>pre-amendment agreement</i></b> means a native title agreement entered into before the commencement of this definition.’.	20 21
(2) Schedule, definition <i>approved cultural heritage management plan</i> , ‘by the chief executive or the Minister’—	22 23
<i>omit.</i>	24
(3) Schedule 2, definition <i>existing agreement</i> , ‘the commencement of this schedule’—	25 26
<i>omit, insert—</i>	27
‘16 April 2004’.	28
(4) Schedule, definition <i>sponsor</i> , paragraph (b), ‘means’—	29
<i>omit.</i>	30

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(5) Schedule, definition <i>sponsor</i> —	1
<i>insert</i> —	2
‘(c) for a cultural heritage agreement—the person who accepts responsibility for the agreement.’	3
	4
<b>Division 13</b>	<b>5</b>
<b>Amendment of Torres Strait Islander Land Act 1991</b>	<b>6</b>
<b>191 Act amended</b>	<b>7</b>
This division amends the <i>Torres Strait Islander Land Act 1991</i> .	8
	9
<b>192 Amendment of s 41 (Existing interests)</b>	<b>10</b>
Section 41(2)(a)—	11
<i>omit, insert</i> —	12
‘(a) an old Act granted lease or a new Act granted lease under the new Land Holding Act; or’.	13
	14
<b>193 Amendment of s 97 (Lessee of townsite lease taken to be lessor of existing leases)</b>	<b>15</b>
(1) Section 97(1)(a)—	17
<i>omit, insert</i> —	18
‘(a) an old Act granted lease or a new Act granted lease under the new Land Holding Act;’.	19
	20
(2) Section 97(1)(b), ‘Act; or’—	21
<i>omit, insert</i> —	22
‘Act;’.	23

[s 194]

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<b>194</b>	<b>Amendment of s 107 (Leases for private residential purposes—general conditions and requirements)</b>	1 2
	Section 107—	3
	<i>insert</i> —	4
	‘(4) If the lessee is the recipient of a hardship certificate under the new Land Holding Act and the certificate has not previously been used under this section, the valuation methodology decided by the chief executive under subsection (1)(a)(iii)(A) must be that the value of the lease land is nil, whether or not the land identified in the certificate is the same as the lease land.’.	5 6 7 8 9 10 11
<b>195</b>	<b>Amendment of s 111 (Particular dealings to be registered)</b>	12 13
	Section 111(2), ‘land,’—	14
	<i>omit, insert</i> —	15
	‘land’.	16
<b>196</b>	<b>Amendment of s 112 (Definitions for div 6)</b>	17
	Section 112, definition <i>lessor</i> , paragraph (b), ‘townsite sublease under which’—	18 19
	<i>omit, insert</i> —	20
	‘townsite lease under which’.	21
<b>197</b>	<b>Amendment of sch 1 (Dictionary)</b>	22
	Schedule 1—	23
	<i>insert</i> —	24
	‘ <i>new Land Holding Act</i> means the <i>Aboriginal and Torres Strait Islander Land Holding Act 2011</i> .’.	25 26



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<b>Division 14</b>	<b>Amendment of Vegetation Management Act 1999</b>	1 2
<b>198 Act amended</b>		3
	This division amends the <i>Vegetation Management Act 1999</i> .	4
<b>199 Amendment of schedule (Dictionary)</b>		5
(1)	Schedule, definition <i>indigenous land</i> , paragraph (b)— <i>omit</i> .	6 7
(2)	Schedule, definition <i>indigenous land</i> , paragraphs (c) to (e)— <i>renumber</i> as paragraphs (b) to (d).	8 9
<b>Division 15</b>	<b>Amendment of Water Act 2000</b>	10
<b>200 Act amended</b>		11
	This division amends the <i>Water Act 2000</i> .	12
<b>201 Amendment of s 609 (Removal of board)</b>		13
(1)	Section 609(c)— <i>omit</i> .	14 15
(2)	Section 609(d) and (e)— <i>renumber</i> as section 609(c) and (d).	16 17
<b>202 Amendment of ch 4, pt 6 hdg (Reserve powers of Minister and Treasurer)</b>		18 19
	Chapter 4, part 6, heading, ‘and Treasurer’— <i>omit</i> .	20 21

[s 203]

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<b>203</b>	<b>Amendment of s 999 (Minister’s and Treasurer’s power to give joint directions to corporatised entity)</b>	1 2
(1)	Section 999, heading, ‘and Treasurer’s power to give joint’— <i>omit, insert—</i> ‘ <b>power to give</b> ’.	3 4 5
(2)	Section 999(1), from ‘The’ to ‘are’— <i>omit, insert—</i> ‘The Minister may give the corporatised entity a written direction if the Minister is’.	6 7 8 9
<b>204</b>	<b>Amendment of s 1013D (Minister’s and Treasurer’s power to give joint directions to new water entities)</b>	10 11
(1)	Section 1013D, heading, ‘and Treasurer’s power to give joint’— <i>omit, insert—</i> ‘ <b>power to give</b> ’.	12 13 14 15
(2)	Section 1013D(1), from ‘The’ to ‘are’— <i>omit, insert—</i> ‘The Minister may give a new water entity a written direction if the Minister is’.	16 17 18 19
<b>205</b>	<b>Amendment of sch 4 (Dictionary)</b>	20
	Schedule 4, definition <i>community service obligations</i> , paragraph (b)(i), ‘or a joint direction by the Minister and Treasurer’— <i>omit.</i>	21 22 23 24

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<b>Division 16</b>	<b>Amendment of Water Supply (Safety and Reliability) Act 2008</b>	1 2
<b>206</b>	<b>Act amended</b>	3
	This division amends the <i>Water Supply (Safety and Reliability) Act 2008</i> .	4 5
<b>207</b>	<b>Amendment of s 201 (Preparing particular plans)</b>	6
	Section 201(5)(i), from ‘a reticulation system’ to ‘machines—include’—	7 8
	<i>omit, insert</i> —	9
	‘dual reticulation—include’.	10
<b>208</b>	<b>Amendment of s 250 (Application for exemption)</b>	11
	Section 250(2)(b), from ‘a reticulation system’ to ‘machines’—	12 13
	<i>omit, insert</i> —	14
	‘dual reticulation’.	15
<b>209</b>	<b>Amendment of s 274 (Public reporting requirement)</b>	16
	Section 274(1)(c), from ‘a reticulation system’ to ‘machines’—	17 18
	<i>omit, insert</i> —	19
	‘dual reticulation’.	20
<b>210</b>	<b>Amendment of s 301 (Making declaration)</b>	21
	Section 301(2)(c), from ‘a reticulation system’ to ‘machines’—	22 23
	<i>omit, insert</i> —	24
	‘dual reticulation’.	25

[s 211]

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<b>211</b>	<b>Amendment of s 340 (Ch 4 does not apply to particular dams)</b>	1
	Section 340(b), ‘weir that’—	2
	<i>omit, insert</i> —	3
	‘a weir that’.	4
<b>212</b>	<b>Amendment of s 434 (Power to require information or documents)</b>	5
	Section 434(4), ‘subsection (3)(b)’—	6
	<i>omit, insert</i> —	7
	‘subsection (3)’.	8
<b>213</b>	<b>Amendment of s 631 (Application of particular provisions—existing schemes)</b>	9
	(1) Section 631(3)—	10
	<i>renumber</i> as section 631(4).	11
	(2) Section 631—	12
	<i>insert</i> —	13
	‘(3) This section is subject to section 645.’.	14
<b>214</b>	<b>Amendment of s 632 (Application of particular provisions—schemes supplying recycled water for particular purposes)</b>	15
	(1) Section 632(5)—	16
	<i>renumber</i> as section 632(6).	17
	(2) Section 632—	18
	<i>insert</i> —	19
	‘(5) This section is subject to section 645.’.	20
		21
		22
		23
		24
		25

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<b>215</b>	<b>Insertion of new ch 10, pt 5</b>	1
	Chapter 10—	2
	<i>insert</i> —	3
<b>‘Part 5</b>	<b>Transitional provisions</b>	4
	<b>inserted under Aboriginal and</b>	5
	<b>Torres Strait Islander Land</b>	6
	<b>Holding Act 2011</b>	7
<b>‘644</b>	<b>Definition for pt 5</b>	8
	‘In this part—	9
	<i>relevant recycled water scheme</i> means a recycled water	10
	scheme under which recycled water is or was supplied to	11
	premises by way of a reticulation system that—	12
	(a) is used only to provide recycled water for outdoor use or	13
	for use in flushing toilets or in washing machines; and	14
	(b) is not dual reticulation.	15
<b>‘645</b>	<b>Sections 631 and 632 do not apply to a relevant</b>	16
	<b>recycled water scheme</b>	17
	‘Sections 631 and 632 do not apply, and are taken never to	18
	have applied, to a relevant recycled water scheme.	19
<b>‘646</b>	<b>Application of s 633 to a relevant recycled water</b>	20
	<b>scheme</b>	21
	‘(1) Section 633(1A) to (3) applies, and is taken always to have	22
	applied, to a relevant recycled water scheme.	23
	‘(2) However, for subsection (1), section 633(3)(b) applies as if the	24
	reference to ‘the day that is 1 year after the day recycled water	25
	is first supplied under the scheme’ were a reference to ‘the	26
	later of the following days—	27
	(a) 1 July 2013; or	28

[s 216]

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(b) the day that is 1 year after the day recycled water is first supplied under the scheme.’.	1 2
‘(3) Subsection (1) applies despite section 633(1).’.	3
<b>216 Amendment of sch 3 (Dictionary)</b>	4
(1) Schedule 3—	5
<i>insert—</i>	6
‘ <i>cost recovery notice</i> , for chapter 5, part 5, division 3, see section 443(2).	7 8
<i>costs and expenses</i> , for chapter 5, part 5, division 3, see section 441.	9 10
<i>dual reticulation</i> means a network of pipes that allows drinking water and recycled water to be supplied to premises from separate pipes, if the recycled water is supplied for any of the following purposes—	11 12 13 14
(a) toilet flushing;	15
(b) for premises that are residential premises—	16
(i) connection to a cold water laundry tap for a washing machine; or	17 18
(ii) irrigation of lawns or gardens; or	19
(iii) external wash down.	20
<i>event</i> , for chapter 5, part 5, division 3, see section 441.	21
<i>noncompliance</i> , for chapter 5, part 5, division 3, see section 435(2).	22 23
<i>prescribed person</i> , for chapter 5, part 5, division 3, see section 442(1).	24 25
<i>relevant recycled water scheme</i> , for chapter 10, part 5, see section 644.	26 27
<i>water supply incident</i> , for chapter 5, part 5, division 3, see section 441.’.	28 29

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(2)	Schedule 3, definition <i>condition</i> , paragraph (b)(ii), ‘section 246(1)’—	1 2
	<i>omit, insert</i> —	3
	‘section 256(1)’.	4
(3)	Schedule 3, definition <i>customer</i> , paragraph 1(b)(iii)(B), ‘service.’—	5 6
	<i>omit, insert</i> —	7
	‘service; or’.	8
(4)	Schedule 3, definition <i>demand management</i> , paragraph 1(d), ‘resource;’—	9 10
	<i>omit, insert</i> —	11
	‘resource; and’.	12
<b>Division 17</b>	<b>Amendment of Wild Rivers Regulation 2007</b>	13 14
<b>217</b>	<b>Regulation amended</b>	15
	This division amends the <i>Wild Rivers Regulation 2007</i> .	16
<b>218</b>	<b>Amendment of s 3 (Specified works—other infrastructure (Act, s 48))</b>	17 18
	Section 3(2), definition <i>indigenous land</i> , paragraphs (a) to (e)—	19 20
	<i>omit, insert</i> —	21
	‘(a) the <i>Aurukun and Mornington Shire Leases Act 1978</i> ;	22
	(b) the <i>Aboriginal Land Act 1991</i> ;	23
	(c) the <i>Torres Strait Islander Land Act 1991</i> ;	24
	(d) the <i>Land Act 1994</i> .’.	25

<b>Schedule</b>	<b>Dictionary</b>	1
	section 8	2
<i>Aboriginal land</i>	means Aboriginal land under ALA.	3
<i>Aboriginal trust land</i>	means Aboriginal trust land under ALA.	4 5
<i>affected person</i>	—	6
(a)	for a decision, means a person whose interests are reasonably likely to be directly affected by decision; or	7 8
(b)	for a legal or practical obstacle to the granting of a lease to satisfy a lease entitlement, means a person whose interests may be affected by how the obstacle is resolved.	9 10 11 12
<i>agreed boundary relocation</i>	see section 71(1).	13
<i>agreed deferred grant</i>	see section 36(1).	14
<i>ALA</i>	means the <i>Aboriginal Land Act 1991</i> .	15
<i>appeal tribunal</i>	means an appeal tribunal as constituted under the old Land Holding Act.	16 17
<i>appropriately qualified</i>	, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.	18 19 20
<i>appropriate register</i>	means—	21
(a)	for freehold land—the freehold land register; or	22
(b)	for other land—the appropriate register for the land under the Land Act.	23 24
<i>beneficiary</i>	, of a deceased person—	25
(a)	means a person entitled to share in the estate of the deceased person; and	26 27
(b)	includes a person entitled to share in the estate of the deceased person through the estate of another person who is also deceased.	28 29 30



<b><i>Commonwealth Native Title Act</i></b> means the <i>Native Title Act 1993</i> (Cwlth).	1 2
<b><i>contested boundary relocation</i></b> see section 73(1).	3
<b><i>contested deferred grant</i></b> see section 38(1).	4
<b><i>deferred grant</i></b> , of a lease to satisfy a lease entitlement, see section 30(1).	5 6
<b><i>hardship certificate</i></b> see section 18(1).	7
<b><i>holder</i></b> , of a lease entitlement, see section 9(2).	8
<b><i>housing chief executive</i></b> means the chief executive of the department in which the <i>Housing Act 2003</i> is administered.	9 10
<b><i>interested person</i></b> , in the estate of a deceased person (the <b><i>identified person</i></b> ), means any of the following having an interest in the estate, or in the administration of the estate, of the identified person, having regard to the laws of succession—	11 12 13 14 15
(a) a beneficiary of the identified person;	16
(b) a personal representative of the identified person or of any other person who is deceased, as provided for in a will or as provided for in a grant of probate or letters of administration;	17 18 19 20
(c) a person identified in a JLOMA section 60 certificate.	21
<b><i>JLOMA</i></b> means the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> .	22 23
<b><i>JLOMA section 60 certificate</i></b> means a certificate under JLOMA, section 60(3).	24 25
<b><i>Land Act</i></b> means the <i>Land Act 1994</i> .	26
<b><i>Land Court Act</i></b> means the <i>Land Court Act 2000</i> .	27
<b><i>Land Title Act</i></b> means the <i>Land Title Act 1994</i> .	28
<b><i>lease boundaries</i></b> , in relation to a lease, means the boundaries of the land the subject of the lease.	29 30
<b><i>lease entitlement</i></b> see section 9(1).	31

Schedule

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<i>lease entitlement land</i> means the land the subject of a lease entitlement.	1 2
<i>lease entitlement notice</i> , for a lease entitlement, see section 13(1).	3 4
<i>lease land</i> , in a provision about a lease, means the land the subject of the lease.	5 6
<i>local advisory group</i> , for a trust area, means the local advisory group established for the trust area under section 77.	7 8
<i>new Act granted lease</i> means a lease granted under this Act.	9
<i>old Act granted lease</i> see section 12(2).	10
<i>old Land Holding Act</i> means the repealed <i>Aborigines and Torres Strait Islanders (Land Holding) Act 1985</i> .	11 12
<i>proper applicant</i> , for a lease, means a person who could reasonably be expected to be a grantee, whether or not the only grantee, of the lease if the lease were to be granted.	13 14 15
<i>recipient</i> , of a hardship certificate, means the person identified in the certificate as its recipient.	16 17
<i>reference entity</i> , for a lease entitlement, means each of the following—	18 19
(a) the trustee of the trust area for the lease entitlement;	20
(b) if some or all of the land the subject of the lease entitlement is the subject of a townsite lease under ALA or TSILA—the lessee of the townsite lease.	21 22 23
<i>registered</i> , in relation to a new Act granted lease or an old Act granted lease, or an interest over a new Act granted lease or old Act granted lease, means registered under the Land Act or Land Title Act.	24 25 26 27
<i>registrar</i> means the registrar of titles under the Land Title Act.	28
<i>relocation</i> of the boundaries of an old Act granted lease, is a change, within the trust area for the lease, to the boundaries of the lease land, including, for example, a relocation of all the boundaries of the lease to another part of the trust area for the lease.	29 30 31 32 33

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<i>social housing</i> means housing being used to provide subsidised housing for residential use.	1 2
<i>statement of reasons (contested boundary relocation)</i> see section 73(2).	3 4
<i>statement of reasons (contested deferred grant)</i> see section 38(2).	5 6
<i>statement of reasons (obstacles)</i> see section 23(1).	7
<i>Torres Strait Islander land</i> means Torres Strait Islander land under TSILA.	8 9
<i>Torres Strait Islander trust land</i> means Torres Strait Islander trust land under TSILA.	10 11
<i>trust area</i> —	12
(a) generally—see section 10(1); or	13
(b) for a lease entitlement—see section 9(1).	14
<i>trustee</i> , of a trust area, see section 10(2).	15
<i>trustee (Aboriginal) lease</i> means a trustee (Aboriginal) lease under ALA.	16 17
<i>trustee council</i> , for an application made under the old Land Holding Act, section 5, means the entity to which the application was made.	18 19 20
<i>trustee (Torres Strait Islander) lease</i> means a trustee (Torres Strait Islander) lease under TSILA.	21 22
<b>TSILA</b> means the <i>Torres Strait Islander Land Act 1991</i> .	23
<i>unallocated State land</i> means unallocated State land under the Land Act.	24 25