



Nature Conservation Act 1992

Reprinted as in force on 10 November 2006

Reprint No. 4E

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

Nature Conservation Act 1992

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Nature Conservation Act 1992

[as amended by all amendments that commenced on or before 10 November 2006]

An Act to provide for the conservation of nature

Part 1 Preliminary

1 Short title

This Act may be cited as the *Nature Conservation Act 1992*.

3 Act binds all persons

- (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.
- (2) Nothing in this Act makes the Commonwealth, the State or another State liable to be prosecuted for an offence.

3A Territorial application of Act

- (1) This Act applies both within and outside the State.
- (2) This Act applies outside the State to the full extent of the extraterritorial legislative power of the Parliament.

Part 2 Object of Act

4 Object of Act

The object of this Act is the conservation of nature.

5 How object is to be achieved

The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for the whole of the State that involves, among other things, the following—

- (a) Gathering of information and community education etc.
 - gathering, researching, analysing, monitoring and disseminating information on nature;
 - identifying critical habitats and areas of major interest;
 - encouraging the conservation of nature by the education and cooperative involvement of the community, particularly land-holders;
- (b) Dedication and declaration of protected areas
 - the dedication and declaration of areas representative of the biological diversity, natural features and wilderness of the State as protected areas;
- (c) Management of protected areas
 - the management of protected areas in accordance with—
 - (i) the management principles; and
 - (ii) the interim and declared management intent; and
 - (iii) the management plans;for the areas;
- (d) Protection of native wildlife and its habitat
 - the protection of the biological diversity of native wildlife and its habitat by—
 - (i) the dedication and declaration of protected areas; and
 - (ii) prescribing protected and prohibited wildlife; and
 - (iii) the management of wildlife in accordance with—

- (A) the management principles; and
 - (B) the declared management intent; and
 - (C) any conservation plan;
- for the wildlife; and
- (iv) entering into conservation agreements;
- (e) Use of protected wildlife and areas to be ecologically sustainable
 - providing for the ecologically sustainable use of protected wildlife and areas by the preparation and implementation of management and conservation plans consistent with the values and needs of the wildlife or areas concerned, particularly plans dealing with the management of—
 - (i) protected areas; and
 - (ii) the taking or use of wildlife; and
 - (iii) protected wildlife and its habitat; and
 - (iv) critical habitats and areas of major interest;
- (f) Recognition of interest of Aborigines and Torres Strait Islanders in nature and their cooperative involvement in its conservation
 - the recognition of the interest of Aborigines and Torres Strait Islanders in protected areas and native wildlife;
 - the cooperative involvement of Aborigines and Torres Strait Islanders in the conservation of nature;
- (g) Cooperative involvement of land-holders
 - the cooperative involvement of land-holders in the conservation of nature.

6 Community participation in administration of Act

This Act is to be administered, as far as practicable, in consultation with, and having regard to the views and interests

of, land-holders and interested groups and persons, including Aborigines and Torres Strait Islanders.

Part 3 Interpretation

Division 1 Dictionary

7 Definitions

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

Division 2 Key definitions

8 Meaning of *nature*

- (1) *Nature* includes all aspects of nature.
- (2) Without limiting subsection (1), *nature* includes—
 - (a) ecosystems and their constituent parts; and
 - (b) all natural and physical resources; and
 - (c) natural dynamic processes; and
 - (d) the characteristics of places, however large or small, that contribute to—
 - (i) their biological diversity and integrity; or
 - (ii) their intrinsic or scientific value.

9 Meaning of *conservation*

Conservation is the protection and maintenance of nature while allowing for its ecologically sustainable use.

10 Meaning of *biological diversity*

- (1) ***Biological diversity*** is the natural diversity of native wildlife, together with the environmental conditions necessary for their survival, and includes—
- (a) regional diversity, that is, the diversity of the landscape components of a region, and the functional relationships that affect environmental conditions within ecosystems; and
 - (b) ecosystem diversity, that is, the diversity of the different types of communities formed by living organisms and the relations between them; and
 - (c) species diversity, that is, the diversity of species; and
 - (d) genetic diversity, that is, the diversity of genes within each species.
- (2) In subsection (1)—
- landscape components*** includes landforms, soils, water, climate, wildlife and land uses.

11 Meaning of *ecologically sustainable use*

Ecologically sustainable use is—

- (a) in relation to wildlife—the taking or use of the wildlife; or
- (b) in relation to protected areas—the use of the areas; within their capacity to sustain natural processes while—
- (c) maintaining the life support systems of nature; and
- (d) ensuring that the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations.

12 Meaning of *threatening process*

A ***threatening process*** is any process that is capable of—

- (a) threatening the survival of any protected area, area of major interest, protected wildlife, community of native wildlife or native wildlife habitat; or

- (b) affecting the capacity of any protected area, area of major interest, protected wildlife, community of native wildlife or native wildlife habitat to sustain natural processes.

13 Meaning of *critical habitat*

- (1) ***Critical habitat*** is habitat that is essential for the conservation of a viable population of protected wildlife or community of native wildlife, whether or not special management considerations and protection are required.
- (2) A ***critical habitat*** may include an area of land that is considered essential for the conservation of protected wildlife, even though the area is not presently occupied by the wildlife.

Part 4 Protected areas

Division 1 Basic concepts

14 Classes of protected areas to which Act applies

The classes of protected areas to which this Act applies are—

- (a) national parks (scientific); and
- (b) national parks; and
- (c) national parks (Aboriginal land); and
- (d) national parks (Torres Strait Islander land); and
- (e) national parks (recovery); and
- (f) conservation parks; and
- (g) resources reserves; and
- (h) nature refuges; and
- (i) coordinated conservation areas; and
- (j) wilderness areas; and

- (k) World Heritage management areas; and
- (l) international agreement areas.

15 Management of protected areas

- (1) Each protected area is to be managed in accordance with—
 - (a) the management principles prescribed by this division for the class of protected area; and
 - (b) if the area is—
 - (i) a national park (Aboriginal land) or national park (Torres Strait Islander land)—the lease or sublease of the area; or
 - (ii) a nature refuge or a wilderness area—the declared management intent, and the conservation agreement or covenant, for the area; or
 - (iii) a coordinated conservation area—
 - (A) the interim management intent for the area until a management plan is approved for the area; and
 - (B) the conservation agreement for the area; and
 - (c) the management plan for the area.
- (2) The interim or declared management intent for a protected area is the management intent for the area specified in the regulation dedicating or declaring the area.
- (3) The interim or declared management intent for a protected area must contain a statement of—
 - (a) the area's significant cultural and natural resources and values; and
 - (b) the proposed management intent for, and any proposed use of, the area.

16 Management principles of national parks (scientific)

- (1) A national park (scientific) is to be managed to—

- (a) protect the area's exceptional scientific values and, in particular—
 - (i) to ensure that the processes of nature continue unaffected in the area; and
 - (ii) to protect the area's biological diversity to the greatest possible extent; and
 - (b) allow controlled scientific study and monitoring of the area's natural resources.
- (2) However, if threatened wildlife is a significant natural resource for the area, management of the area may include—
- (a) manipulation of the wildlife's habitat; and
 - (b) the control of threatening processes relating to the wildlife, including threatening processes caused by other wildlife.

17 Management principles of national parks

- (1) A national park is to be managed to—
- (a) provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the area's cultural resources and values; and
 - (b) present the area's cultural and natural resources and their values; and
 - (c) ensure that the only use of the area is nature-based and ecologically sustainable.
- (2) The management principle mentioned in subsection (1)(a) is the cardinal principle for the management of national parks.

18 Management principles of national parks (Aboriginal land)

- (1) A national park (Aboriginal land) is to be managed as a national park.
- (2) Subject to subsection (1), a national park (Aboriginal land) is to be managed, as far as practicable, in a way that is consistent

with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

19 Management principles of national parks (Torres Strait Islander land)

- (1) A national park (Torres Strait Islander land) is to be managed as a national park.
- (2) Subject to subsection (1), a national park (Torres Strait Islander land) is to be managed, as far as practicable, in a way that is consistent with any Island custom applicable to the area, including any Island custom relating to activities in the area.

19A Management principles of national parks (recovery)

A national park (recovery) is to be managed to do the following—

- (a) protect or restore, to the greatest possible extent, the park's natural condition and protect its cultural resources and values so that it can be dedicated as a national park;
- (b) provide for the manipulation of the park's natural resources to restore its conservation values;
- (c) ensure any commercial or other use of the park's natural resources to restore its conservation values is consistent with an approved regeneration plan for the park;
- (d) ensure any other use of the park is nature-based.

20 Management principles of conservation parks

A conservation park is to be managed to—

- (a) conserve and present the area's cultural and natural resources and their values; and
- (b) provide for the permanent conservation of the area's natural condition to the greatest possible extent; and

- (c) ensure that any commercial use of the area's natural resources, including fishing and grazing, is ecologically sustainable.

21 Management principles of resources reserves

- (1) Subject to subsection (2), a resources reserve is to be managed to—
 - (a) recognise and, if appropriate, protect the area's cultural and natural resources; and
 - (b) provide for the controlled use of the area's cultural and natural resources; and
 - (c) ensure that the area is maintained predominantly in its natural condition.
- (2) The felling of timber for a commercial purpose must not be conducted in a resources reserve.

22 Management principles of nature refuges

A nature refuge is to be managed to—

- (a) conserve the area's significant cultural and natural resources; and
- (b) provide for the controlled use of the area's cultural and natural resources; and
- (c) provide for the interests of land-holders to be taken into account.

23 Management principles of coordinated conservation areas

A coordinated conservation area is to be managed to—

- (a) conserve the area's natural and cultural values by coordinated management involving the area's various land-holders; and
- (b) take account of the area's values, including its recreational, educational and commercial values; and

- (c) provide for the interests of the various land-holders to be maintained.

24 Management principles of wilderness areas

A wilderness area is to be managed to—

- (a) protect or restore the wilderness values, and the cultural and natural resources, of the area to the greatest possible extent; and
- (b) maintain the area to preserve its capacity to evolve in the absence of significant human interference; and
- (c) provide opportunities for solitude and appropriate self-reliant recreational and spiritual activities.

25 Management principles of World Heritage management areas

A World Heritage management area is to be managed to—

- (a) meet international obligations in relation to the area; and
- (b) protect the area's internationally outstanding cultural and natural resources and its biological diversity; and
- (c) transmit the area's world heritage values to future generations.

26 Management principles of international agreement areas

An international agreement area is to be managed to—

- (a) maintain the area's importance to the conservation of nature that is the subject of significant international concern; and
- (b) conserve the area's native wildlife habitat as far as practicable; and
- (c) provide for the interests of land-holders to be taken into account.

27 Prohibition on mining

- (1) A mining interest can not be granted in relation to—
 - (a) a national park (scientific); or
 - (b) a national park; or
 - (c) a national park (Aboriginal land); or
 - (d) a national park (Torres Strait Islander land); or
 - (e) a national park (recovery); or
 - (f) a conservation park.
- (2) However, subsection (1) does not apply if—
 - (a) the mining interest is—
 - (i) an authorised activity for a survey licence under the *Petroleum and Gas (Production and Safety) Act 2004* (the **P&G Act**), section 394¹ other than in relation to a petroleum facility under that Act; or
 - (ii) an authorised activity for a pipeline licence under the P&G Act; and
 - (b) an authority under section 34 or 35² has been given for the licence.
- (3) In this section—

mining interest means any activity authorised under—

 - (a) the *Mineral Resources Act 1989*; or
 - (b) the *Petroleum Act 1923*; or
 - (c) the P&G Act.

1 *Petroleum and Gas (Production and Safety) Act 2004* section 394 (Surveying activities)

2 Section 34 (Leases etc. over protected areas) or 35 (Chief executive's powers about permitted uses in national parks or national parks (recovery))

Division 2 Protected areas (State land)

Subdivision 1 Preliminary

28 Meaning of *protected area* in division

In this division—

protected area means—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (recovery); or
- (d) a conservation park; or
- (e) a resources reserve.

Subdivision 2 Dedication, revocation and amalgamation

29 Dedication of protected areas

- (1) The Governor in Council may, by regulation, dedicate a specified area of State land or a forest reserve that is subject to a lease under the *Land Act 1994* as—
 - (a) a national park (scientific); or
 - (b) a national park; or
 - (c) a national park (recovery); or
 - (d) a conservation park; or
 - (e) a resources reserve.
- (2) The regulation may define the extent of the area by reference to—
 - (a) a specified depth below the surface of land; or
 - (b) a specified height above the surface of land.

- (3) The classes of protected areas mentioned in subsection (1) are listed in descending order of the level of protection given to them under this Act.

30 Revocation of State forests and timber reserves

- (1) Despite the *Forestry Act 1959*, if an area that is to be dedicated as a protected area is, or includes part of, a State forest or timber reserve set apart and declared under that Act, the regulation dedicating the area may revoke, in whole or part, the setting apart and declaration of the State forest or timber reserve.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to dedicate the area.

31 Trustees of protected areas

- (1) If an area is dedicated as a conservation park or resources reserve, the Governor in Council may, by regulation, place the area under the management of trustees.
- (2) The trustees are to be appointed by the Governor in Council.
- (3) The trustees must comply with section 15 in the management of the protected area.
- (4) The *Acts Interpretation Act 1954*, section 25 applies to an office as trustee.
- (5) The *Trusts Act 1973* does not apply to—
 - (a) trusts created under this section; and
 - (b) the trustees of such trusts.
- (6) Trustees may, in their official name—
 - (a) sue or be sued; and
 - (b) take action for removal of trespassers or protection of property under their management.
- (7) For the purpose of any legal proceeding, trustees are taken to be the owners of property under their management.

- (8) The Governor in Council may, by gazette notice, revoke a trust created under this section.
- (9) The persons who were the trustees of a trust immediately before its revocation must, within 30 days of receipt of written notice given to them by the Minister, repay to the State any unspent amount that—
 - (a) was paid to them by the State for the purposes of the trust; and
 - (b) was held by them when the trust was revoked.
- (10) An amount payable to the State under subsection (9) is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

32 Revocation of protected areas

- (1) The Governor in Council may, by regulation, revoke the dedication of a protected area in whole or part.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

33 Amalgamation etc. of protected areas

- (1) The Governor in Council may, by regulation—
 - (a) amalgamate protected areas of the same class, and assign a name to the amalgamated area; or
 - (b) change the class of a protected area by dedicating the area as another class of protected area; or
 - (c) change the boundaries of a protected area.
- (2) If—
 - (a) because of the change in the class of a protected area, the area will be given less protection under this Act; or
 - (b) because of the change in the boundaries of a protected area, land will be removed from the area (other than for

the purpose of dedicating the removed land as land with a higher level of protection under this Act);

the regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

Subdivision 3 Interests in protected areas

34 Leases etc. over protected areas

- (1) A lease, agreement, licence, permit or other authority over, or in relation to, land in a protected area (other than an agreement or a licence, permit or other authority issued or given under a regulation) may be granted, made, issued or given only—
 - (a) by—
 - (i) if the area is a national park (scientific), national park or national park (recovery)—the chief executive under this Act; or
 - (ii) if the area is a conservation park or resources reserve—the chief executive or trustees of the area with the consent of the chief executive; or
 - (b) under another Act by—
 - (i) the Governor in Council; or
 - (ii) someone else with the consent of the Minister or chief executive.
- (2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—
 - (a) the management principles for the area; and
 - (b) if a management plan has been approved for the area, the management plan.

35 Chief executive's powers about permitted uses in national parks or national parks (recovery)

- (1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park or national park (recovery) if—
 - (a) the use under the authority is only for a service facility; and
 - (b) the chief executive is satisfied—
 - (i) if the land is in a national park, the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
 - (ii) if the land is in a national park (recovery), the management principle under section 19A(a) will be observed to the greatest possible extent; and
 - (iii) the use will be in the public interest; and
 - (iv) the use is ecologically sustainable; and
 - (v) there is no reasonably practicable alternative to the use; and
 - (c) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.
- (2) Subsection (1) has effect despite sections 15 and 34(2).

36 Authorities for new national park or national park (recovery)

- (1) This section applies if—
 - (a) land is dedicated as a national park or national park (recovery); and
 - (b) immediately before the dedication, the land was being used (the *previous use*) in a way that is inconsistent with the management principles of the park.
- (2) The chief executive may grant an authority (a *previous use authority*) over, or in relation to, the land to allow the

previous use to continue for no more than the allowable term after the dedication.

- (3) However, a previous use authority must not be granted for a national park if the previous use was under a sales permit under the *Forestry Act 1959*, section 46.
- (4) A previous use authority must not be renewed.
- (5) This section—
 - (a) applies despite sections 15 and 34(2); but
 - (b) does not limit section 35.³
- (6) In this section—

allowable term, for a previous use of a national park or national park (recovery), means a term no longer than—

- (a) if the previous use was under a permit or lease as follows, the term that is the unexpired term of the permit or lease—
 - (i) an occupation permit under the *Forestry Act 1959*, section 35(1)(a) under which the right of occupation is only for a service facility;
 - (ii) a stock grazing permit under the *Forestry Act 1959*, section 35(1)(c);
 - (iii) an apiary permit under the *Forestry Act 1959*, section 35(1)(d);
 - (iv) a sales permit under the *Forestry Act 1959*, section 46, for the taking of plant parts if it does not authorise cutting or pruning of plants so severely that the plant is likely to die;⁴
 - (v) a lease under the *Land Act 1994*; or
- (b) otherwise—3 years after the dedication.

3 Sections 15 (Management of protected areas), 34 (Leases etc. over protected areas) and 35 (Chief executive's powers about permitted uses in national parks or national parks (recovery))

4 *Forestry Act 1959*, sections 35 (Granting of permit for land within State forest) and 46 (Sale of forest products or quarry material)

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

plant parts means the flowers, foliage, seeds or stems of the plant.

37 Chief executive's powers to renew existing authorities for national parks

(1) In this section—

authority means a lease, agreement, permit or other authority (other than an authority permitting stock grazing or the location of beehives)—

- (a) granted, made, issued or given under the former Act or the *Land Act 1962* over, or in relation to, a national park under the former Act; and
- (b) in force immediately before the repeal of the former Act; and
- (c) continued in force under this Act.

former Act means the *National Parks and Wildlife Act 1975*.

- (2) The chief executive may renew, or consent to the renewal of, an authority for the national park if the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.
- (3) The authority may only be renewed for—
 - (a) if no management plan is in force for the area when the renewal is granted—not longer than 10 years; or
 - (b) if a management plan is in force for the area when the renewal is granted—the term authorised under the plan.
- (4) The authority may be renewed subject to the conditions the chief executive considers appropriate.
- (5) This section has effect despite sections 15 and 34(2).

38 Leases may be granted under Land Act 1994

- (1) Subject to subsection (2), a term lease under the *Land Act 1994* may be granted over any land within a protected area as

if the land were reserved and set apart under that Act for public purposes.

- (2) The lease must—
 - (a) be consistent with—
 - (i) the management principles for the area; and
 - (ii) the management plan for the area; and
 - (b) be granted only with the consent of, and subject to the conditions decided by, the chief executive.
- (3) The *Land Act 1994* applies to the lease to the extent that it is not inconsistent with this Act.

39 Creation of interests in protected areas

Despite any other Act, an interest in land in a protected area may be created only in accordance with this Act.

Subdivision 4 Environmental impact statements

39A Application of sdiv 4

- (1) This subdivision applies if a person seeks, under section 34, 35, or 38, an interest in land in a protected area.
- (2) This subdivision applies despite any other Act under which the interest is to be created.

39B Chief executive may require EIS

- (1) The chief executive may, before the interest is created, require the person to give the chief executive an EIS for the use, or a stated use, of the land under the interest.

- (2) The EIS process under the *Environmental Protection Act 1994* applies for the EIS as if the use or stated use were a project to which chapter 3, part 1 of that Act applies.⁵
- (3) The person must pay the costs of preparing the EIS.

39C EIS must be considered

- (1) If an EIS has been required, the interest must not be created before the EIS has been given to the chief executive.
- (2) If an EIS has been given, the chief executive or other person who may create the interest must take the EIS into account before deciding whether or not to create the interest.

Division 3 Protected areas (Aboriginal land and Torres Strait Islander land)

40 Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land)

- (1) This section applies to a national park, or part of a national park, (the ***national park land***) that becomes Aboriginal land or Torres Strait Islander land.
- (2) On approval of the management plan for the national park land under section 119, the Governor in Council must, by regulation, dedicate the national park land as national park (Aboriginal land) or national park (Torres Strait Islander land).
- (3) Despite any other Act, a regulation under this section takes effect on the delivery of the deed of grant over the national park land to the grantees of the area under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*.

⁵ *Environmental Protection Act 1994*, chapter 3, part 1 (EIS process)
See section 37 (When EIS process applies) of that Act.

41 Dedication of Aboriginal land as national park (Aboriginal land) or Torres Strait Islander land as national park (Torres Strait Islander land)

- (1) This section applies to Aboriginal land or Torres Strait Islander land that is not a national park or included in a national park.
- (2) If the grantees of the land and the Minister agree on a proposal for the lease of the land, or part of the land, to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.
- (3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).
- (4) The Minister must prepare the management plan in cooperation with the grantees of, and the board of management for, the land.
- (5) On—
 - (a) the signing of the lease; and
 - (b) the approval of a management plan for the land;the Governor in Council must, by regulation, dedicate the land as national park (Aboriginal land) or national park (Torres Strait Islander land).
- (6) The regulation may define the extent of the area by reference to—
 - (a) a specified depth below the surface of land; or
 - (b) a specified height above the surface of land.
- (7) Despite any other Act, a regulation under this section takes effect on the registration of the lease.

42 Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land)

- (1) Despite the *Land Act 1994*, an authorised lessee may, under this section, sublease land to the State for the purpose of the

land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land).

- (2) If an authorised lessee and the Minister agree on a proposal for the sublease of land to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.
- (3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).
- (4) The Minister must prepare the management plan in cooperation with the lessees of, and the board of management for, the land.
- (5) On—
 - (a) the signing of a sublease; and
 - (b) the approval of a management plan for the land;the Governor in Council must, by regulation, dedicate the area as national park (Aboriginal land) or national park (Torres Strait Islander land).
- (6) The regulation may define the extent of the area by reference to—
 - (a) a specified depth below the surface of land; or
 - (b) a specified height above the surface of land.
- (7) Despite any other Act, a regulation under this section takes effect on the registration of the sublease.
- (8) In this section—

authorised lessee means a lessee of land under the *Land Act 1994* who the Governor in Council, by regulation, has declared to be an authorised lessee for the purpose of this section.

Division 3A Regeneration plans for national parks (recovery)

42A Obligation to prepare regeneration plan

- (1) The chief executive must, as soon as practicable after the dedication of a national park (recovery), make a regeneration plan for the park.
- (2) However, subsection (1) applies only if the chief executive considers a regeneration plan is necessary for the manipulation of the park's natural resources to restore its conservation values.
- (3) A regeneration plan must be made under this division.

42B Purpose of regeneration plan

- (1) The purpose of a regeneration plan for a national park (recovery) is to describe how it is proposed to manage the manipulation of the park's natural resources to restore its conservation values.
- (2) If a management plan has been approved for the park, the management procedures under the regeneration plan must be consistent with the management plan.

42C Publication of draft regeneration plan

- (1) The chief executive must publish a notice of the preparation of a draft regeneration plan for a national park (recovery) in a newspaper likely to be read by people particularly affected by the draft plan.
- (2) The notice must state the following—
 - (a) the location and area of the park;
 - (b) where copies of the draft plan may be obtained or inspected;
 - (c) that any entity may comment about the draft plan to the chief executive;
 - (d) the period during which comments may be made.

- (3) The stated period must be at least 35 days after the publication of the notice.
- (4) A copy of the draft plan must be available free, or on payment of a reasonable price, at the place, or each of the places, stated in the notice.

42D Comments to be considered before final plan made

The chief executive must, before making a final regeneration plan, consider all comments received by the chief executive within the period under section 42C(2)(d) for making comments about the draft regeneration plan.

42E Final regeneration plan

- (1) The chief executive must make a final regeneration plan by gazette notice.
- (2) The chief executive must keep copies of the plan open for public inspection during office hours on business days at—
 - (a) the department's head office; and
 - (b) each regional office and district office of the department in whose area the national park (recovery) to which the plan relates is situated; and
 - (c) other places the chief executive considers appropriate.

42F Implementation of final regeneration plan

The chief executive must give effect to a final regeneration plan.

Division 4 Nature refuges, coordinated conservation areas and wilderness areas

43 Meaning of *protected area* in division

In this division—

protected area means—

- (a) a nature refuge; or
- (b) a coordinated conservation area; or
- (c) a wilderness area.

44 Proposal for declaration of protected area

- (1) If the Minister is satisfied that an area should be declared a protected area, the Minister must prepare a proposal for the declaration.
- (2) The proposal for the declaration must—
 - (a) describe the lands to be included in the area; and
 - (b) specify the proposed class of protected area and the proposed management intent for the area.
- (3) The Minister must give written notice to all land-holders affected by the proposal.
- (4) The notice must specify a day by which the land-holders may make submissions to the Minister relating to the proposal.
- (5) If the Minister considers that it is impracticable to give notice to each land-holder of a particular class, it is sufficient compliance with subsection (3) if the Minister gives notice to the class by publishing a notice in such newspapers as the Minister determines.
- (6) In this section—

land-holder includes a person having an interest in land.

45 Conservation agreements

- (1) If the Minister and land-holders concerned agree on—
 - (a) a proposal that an area should be a protected area; and
 - (b) the class of the protected area; and
 - (c) the management intent for the area;
 - (d) the terms of a proposed conservation agreement for the area to be made between the State and the land-holders;

the Minister must, for the State, enter into the conservation agreement.

- (2) However, if the rights of any of the following persons will be materially affected by the conservation agreement, the Minister must not enter into it without that person's written consent—
 - (a) if land in the area is subject to a lease or mining interest—the lessee or interest holder;
 - (b) if land in the area is subject to an encumbrance—the person entitled to the benefit of the encumbrance.
- (3) The conservation agreement must be consistent with the management principles for the class of area.
- (4) The conservation agreement may contain terms that are binding on—
 - (a) the State; and
 - (b) a land-holder and the land-holder's successors in title.
- (5) Without limiting subsection (4), the conservation agreement may contain terms—
 - (a) requiring the State to provide financial or other assistance; or
 - (b) requiring the State to provide technical advice; or
 - (c) requiring the State to carry out specified activities; or
 - (d) allowing a land-holder to carry out specified activities; or
 - (e) prohibiting a specified use of land in the area; or
 - (f) restricting the use or management of land in the area; or
 - (g) requiring a land-holder to refrain from, or not to permit, specified activities; or
 - (h) requiring a land-holder to carry out specified activities; or
 - (i) requiring a land-holder to permit or restrict access to the area by specified persons; or

- (j) specifying the way in which amounts provided to a land-holder under the agreement are to be applied by the land-holder; or
- (k) requiring a land-holder to repay amounts paid under the agreement if the land-holder contravenes the agreement or the agreement is terminated under section 47(2); or
- (l) providing for any other matter relating to the conservation of the area, including the implementation of the management plan for the protected area.

46 Declaration of protected area

- (1) The Governor in Council may, by regulation, declare a specified area of State land, or the area the subject of a conservation agreement, as—
 - (a) a nature refuge; or
 - (b) a coordinated conservation area; or
 - (c) a wilderness area.
- (2) The regulation must specify—
 - (a) if the area is—
 - (i) a nature refuge or a wilderness area—the declared management intent for the area; or
 - (ii) a coordinated conservation area—the interim management intent for the area; and
 - (b) the duration of the declaration, which must, if the area is the subject of a conservation agreement, be the duration of the agreement.
- (3) The regulation may define the extent of the area by reference to—
 - (a) a specified depth below the surface of land; or
 - (b) a specified height above the surface of land.
- (4) To allay any doubt, a coordinated conservation area or wilderness area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

- (5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a coordinated conservation area or wilderness area.
- (6) In subsection (1)—
State land includes a reserve under the *Land Act 1994*.

47 Duration and termination of conservation agreements

- (1) A conservation agreement has effect until it expires under its terms unless—
 - (a) it is terminated under subsection (2); or
 - (b) the declaration of the protected area to which it relates is revoked.
- (2) A conservation agreement may be terminated only if—
 - (a) in the case of a nature refuge or wilderness area—
 - (i) the land-holder who entered into the agreement requests its termination under the terms of the agreement; and
 - (ii) the Minister is of the opinion that the area to which the agreement relates is no longer needed for, or is no longer capable of being used to achieve, the declared management intent for the area; or
 - (b) in the case of a coordinated conservation area—the land-holder requests its termination under the terms of the agreement.

48 Variation of conservation agreements

A conservation agreement may be varied by a later agreement between the State and land-holders concerned, including, for example—

- (a) in the case of a nature refuge or wilderness area—by removing, at the request of the land-holder who entered into the agreement, a part of the area that, in the Minister's opinion, is no longer needed for, or capable

of being used to achieve, the declared management intent for the area; and

- (b) in the case of a coordinated conservation area—by removing a part of the area at the request of one of the land-holders.

49 Compulsory declaration of nature refuge

(1) If—

- (a) the Minister and land-holders concerned are unable to agree on—
 - (i) a proposal to declare a nature refuge; or
 - (ii) the terms of a conservation agreement for the area concerned; and
 - (b) the Minister is of the opinion that the area is, or includes—
 - (i) an area of major interest; or
 - (ii) a critical habitat;
- and should be declared a nature refuge;

the Minister may give written notice to the land-holders, and persons having an interest in the land-holders' land, advising that a recommendation may be made to the Governor in Council that the area be compulsorily declared as a nature refuge.

(2) The notice must specify—

- (a) the proposed management intent for the area; and
- (b) the reasons why the Minister has reached the opinion; and
- (c) a day by which objections relating to the recommendation must be received by the Minister.

(3) After consideration of any objections properly received by the Minister, the Governor in Council may, by regulation, declare the area, or part of the area, as a nature refuge.

(4) The regulation must—

- (a) describe the area for which the declaration is made; and

- (b) specify the declared management intent for the area; and
- (c) specify the covenant applying to the declaration; and
- (d) specify such other particulars as are prescribed.

50 Revocation of protected area

The Governor in Council may, by regulation, revoke the declaration of a protected area in whole or part.

51 Conservation agreements and covenants binding

- (1) A conservation agreement that is recorded by the registrar under section 134 in relation to land is binding on—
 - (a) the successors in title to the land-holder who entered into the agreement; and
 - (b) persons who have an interest in the land.
- (2) A conservation agreement (other than an agreement mentioned in subsection (1)) is binding on the persons mentioned in section 45(2).
- (3) A conservation covenant is binding on—
 - (a) the land-holder and the land-holder's successors in title; and
 - (b) persons who have an interest in the land.

52 Liability of State

- (1) In this section—

private land means land other than State land.
- (2) The State is not legally liable for an act or omission merely because—
 - (a) a conservation agreement has been entered into under section 45 for private land; or
 - (b) private land has been declared under section 46 or 49 as, or as part of, a protected area.

Division 5 World Heritage management areas

53 Proposal to declare World Heritage management area

- (1) If an area has been included in the World Heritage List established and kept under the World Heritage Convention, the Minister may, by advertisement published in a newspaper circulating throughout the State, propose that the whole or part of the area be declared a World Heritage management area.
- (2) The advertisement must—
 - (a) describe the lands to be included in the proposed area; and
 - (b) specify the proposed management of the area; and
 - (c) invite submissions from affected land-holders, interested groups and persons and members of the public; and
 - (d) specify a day by which submissions are to be made to the Minister.

54 Preparation of management plan

After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a management plan under part 7 for the area as if it were required under section 111(1), except that the Minister need not give notice of the proposal to prepare a draft management plan.

55 Declaration of World Heritage management area

- (1) On approval of a management plan for an area that is proposed to become a World Heritage management area, the Governor in Council must, by regulation, declare the area to which the plan relates to be a World Heritage management area.
- (2) The regulation must—
 - (a) describe the area for which the declaration is made; and

- (b) specify such other particulars as are prescribed.
- (3) The regulation may define the extent of the area by reference to—
 - (a) a specified depth below the surface of land; or
 - (b) a specified height above the surface of land.
- (4) To allay any doubt, a World Heritage management area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.
- (5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a World Heritage management area.

56 Revocation of World Heritage management area

- (1) The Governor in Council may, by regulation, revoke the declaration under this Act of a World Heritage management area, in whole or part.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

Division 6 International agreement areas

57 Proposal to declare international agreement area

- (1) If the Minister is of the opinion that an area has internationally significant natural values, the Minister may, by advertisement published in a newspaper circulating throughout the State, propose that the area be declared an international agreement area.
- (2) The advertisement must—
 - (a) describe the lands to be included in the proposed area; and
 - (b) specify the proposed management of the area; and

- (c) invite submissions from affected land-holders, interested groups and persons and members of the public; and
- (d) specify a day by which submissions are to be made to the Minister.

58 Preparation of management plan

After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a management plan under part 7 for the area as if it were required under section 111(1), except that the Minister need not give notice of the proposal to prepare a draft management plan.

59 Declaration of international agreement area

- (1) On approval of a management plan for an area that is proposed to become an international agreement area, the Governor in Council must, by regulation, declare the area to which the plan relates to be an international agreement area.
- (2) The regulation must—
 - (a) describe the area for which the declaration is made; and
 - (b) specify such other particulars as are prescribed.
- (3) The regulation may define the extent of the area by reference to—
 - (a) a specified depth below the surface of land; or
 - (b) a specified height above the surface of land.
- (4) To allay any doubt, an international agreement area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.
- (5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in an international agreement area.

60 Revocation of international agreement area

The Governor in Council may, by regulation, revoke the declaration under this Act of an international agreement area, in whole or part.

Division 7 Cultural and natural resources**61 Property in cultural and natural resources**

- (1) All cultural and natural resources of a national park (scientific), national park, national park (recovery), conservation park or resources reserve are the property of the State.
- (2) However, if land in a protected area mentioned in subsection (1) was included in a forest reserve immediately before the dedication of the protected area, subsection (1) does not extinguish or affect native title or native title rights and interests in relation to the land.
- (3) Also, subsection (1) has effect subject to—
 - (a) the *Aboriginal Cultural Heritage Act 2003* to the extent it provides for the ownership of Aboriginal cultural heritage other than by the State; and
 - (b) the *Torres Strait Islander Cultural Heritage Act 2003* to the extent it provides for the ownership of Torres Strait Islander cultural heritage other than by the State.

62 Restriction on taking etc. of cultural and natural resources of protected areas

- (1) A person, other than an authorised person, must not take, use, keep or interfere with a cultural or natural resource of a protected area, other than under—
 - (a) the interim or declared management intent for the area; or
 - (b) any conservation agreement or covenant applicable to the area; or

- (c) a lease, agreement, licence, permit or other authority granted, made, issued or given—
 - (i) by the chief executive under sections 34 to 38; or
 - (ii) under the *Forestry Act 1959* or *Mineral Resources Act 1989*; or
 - (iii) under another Act by the Governor in Council, or someone else with the consent of the Minister or chief executive; or
- (d) a licence, permit or other authority issued or given under a regulation; or
- (e) if the area is a conservation park, resources reserve, nature refuge, coordinated conservation area, wilderness area, World Heritage management area or international agreement area—an exemption under a regulation.

Maximum penalty—3000 penalty units or 2 years imprisonment.

- (2) It is a defence to a charge of taking or interfering with a cultural or natural resource in contravention of subsection (1) to prove that—
 - (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and
 - (b) the taking or interference could not have been reasonably avoided.
- (3) Subsection (2) does not allow a person to use or keep the resource.
- (4) Despite subsection (1) and section 15,⁶ but subject to the conditions prescribed under a regulation, a person may take—
 - (a) a fish in a prescribed place; or
 - (b) an invertebrate animal in a prescribed place for use as bait to take fish under paragraph (a); or
 - (c) a mud crab (*Scylla serrata*) in a prescribed place.
- (5) However, subsection (4) does not authorise a person to take—

6 Section 15 (Management of protected areas)

- (a) an animal for a commercial purpose; or
 - (b) an animal prescribed under this Act as threatened, rare or near threatened wildlife; or
 - (c) an animal prescribed under a regulation for this paragraph.
- (6) Also, subsection (4) does not, in itself, authorise a person to enter a prescribed place.
- (7) In this section—
- national park*** includes a national park (Aboriginal land) or, national park (Torres Strait Islander land) or national park (recovery).
- prescribed place*** means a national park, or part of a national park, prescribed under a regulation for subsection (4)(a), (b) or (c).

Division 8 General

63 **Meaning of *land-holder* in division**

In this division—

land-holder includes a person having an interest in land.

64 **Naming of protected areas**

The Governor in Council may, by regulation, assign a name to, or alter the name of, a protected area or aggregation of protected areas.

65 **Effect of change in class of protected area**

- (1) If a protected area, or part of a protected area, is dedicated or declared under this Act to be a protected area of a different class—
- (a) the later dedication or declaration revokes the earlier dedication or declaration of the area or the part of the area to which the dedication or declaration relates; and

- (b) the management plan for the area ceases to apply to the area, unless the regulation dedicating or declaring the area otherwise declares.
- (2) To allay any doubt—
 - (a) subsection (1) applies subject to sections 32 and 33; and
 - (b) subsection (1) does not apply to the declaration of a protected area that includes another class of protected area.

66 Cancellation of licences etc.

- (1) If a licence, permit or other authority issued or given under any Act permits the holder to do an act that would contravene a regulation giving effect to a management plan for—
 - (a) a World Heritage management area; or
 - (b) an international agreement area;the operation of such an authority is, by force of this section, cancelled to the extent that it permits the doing of the act.
- (2) The Minister must, immediately after the making of the regulation, give written notice of the cancellation to the authority holder.
- (3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority holder, it is sufficient compliance with subsection (2) if the Minister gives notice of the cancellation to the authority holders by publishing a notice in such newspapers as the Minister determines.
- (4) The cancellation takes effect from the day the regulation commences.
- (5) Subsection (1) applies despite any other Act.

67 Compensation when protected area declared

- (1) This section applies if—
 - (a) a nature refuge is declared under section 49; or

- (b) a regulation giving effect to a management plan for a World Heritage management area or international agreement area commences.
- (2) If a land-holder's interest in land is injuriously affected by a restriction or prohibition imposed under the declaration or regulation on the land-holder's existing use of the land, the land-holder is entitled to be paid by the State the reasonable compensation because of the restriction or prohibition that is agreed between the State and the land-holder or, failing agreement, decided by the Land Court.
- (3) The land-holder's interest in the land is not injuriously affected if the restriction or prohibition under the declaration or regulation is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the declaration or regulation.
- (4) Compensation is not payable if compensation has already been paid for—
 - (a) the restriction or prohibition; or
 - (b) a restriction or prohibition to the same effect.
- (5) A claim for compensation must—
 - (a) be made in a form approved by the chief executive; and
 - (b) be made to the chief executive within 6 months after the declaration of the protected area or the commencement of the regulation, or the longer period the chief executive or Land Court in special circumstances allows.
- (6) In making a determination, the Land Court must have regard to the following matters—
 - (a) the capacity of the land to sustain the existing use;
 - (b) any change in the value of the land because of the declaration or regulation;
 - (c) any change in the profitability of the land because of the declaration or regulation;
 - (d) any conservation agreement with the land-holder.
- (7) Subsection (6) does not limit the matters to which the Land Court may have regard in making a determination.

(8) Subsection (2) does not apply to land—

(a) if—

- (i) a regulation giving effect to a management plan for a nature refuge is in force; and
- (ii) the nature refuge is declared to be included in a World Heritage management area or international agreement area; and
- (iii) the regulation continues to apply to the nature refuge after declaration; and
- (iv) the land-holder receives, or is entitled to receive, compensation under this section in relation to the land because of the declaration of the nature refuge; or

(b) if—

- (i) an area is identified in a conservation plan as, or including, a critical habitat or an area of major interest; and
- (ii) the area is declared to be a protected area; and
- (iii) the regulation making the declaration declares that the plan continues to apply to the area after declaration; and
- (iv) the land-holder receives, or is entitled to receive, compensation under section 126 in relation to the land because of the approval of the plan.

(9) In this section—

existing use of land includes a lawful use made of the land immediately before the commencement of the declaration or regulation that restricts or prohibits the use.

68 No compensation on termination of conservation agreements or revocation of protected areas

If—

- (a) a conservation agreement is terminated under this Act; or

- (b) a declaration of a protected area is revoked, in whole or part;

the land-holders concerned are not entitled to compensation because of the termination or revocation.

69 Preservation of land-holders' interests

The interests of a land-holder of land forming part of a protected area are not affected by the dedication or declaration of the protected area except to the extent of—

- (a) any binding conservation agreement, or conservation covenant, in relation to the land; or
- (b) a regulation giving effect to the management plan for the area.

70 Unlawful use of certain words

- (1) A person must not use words about an area that is not a protected area in a way that is likely to cause someone else reasonably to believe the area is a protected area.

Maximum penalty—50 penalty units.

- (2) A person must not use words about a protected area in a way that is likely to cause someone else reasonably to believe the area is a protected area of a different class.

Maximum penalty—50 penalty units.

- (3) However, subsections (1) and (2) do not stop a person using the words 'national park' or 'conservation park' in referring to the name of—

- (a) a zone of a marine park set apart and declared under the *Marine Parks Act 1982*; or
- (b) an area declared to be part of the Great Barrier Reef Marine Park under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

Part 4A Forest reserves

Division 1 Preliminary

70A Purpose of pt 4A and its achievement

- (1) The purpose of this part is to assist the dedication of areas within State forests, timber reserves or Land Act reserves as protected areas.
- (2) The purpose is achieved primarily by providing for forest reserve dedications as an interim measure to assist the dedication of the areas as protected areas.
- (3) It is Parliament's intention that, subject to any revocation under this part, each area of land dedicated as a forest reserve will become a protected area as soon as practicable after its dedication.

70B Definitions for pt 4A

In this part—

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

forest reserve means an area dedicated as a forest reserve under section 70C, the dedication for which has not been revoked under section 70E.

Land Act reserve means a reserve under the *Land Act 1994*.

proposed protected area means an area designated as a proposed protected area under section 70K(1), the designation for which has not ended under section 70M.

proposed protected area register means the register that the chief executive keeps under section 70N.

protected area means any of the following—

- (a) a national park (scientific);
- (b) a national park;
- (c) a national park (recovery);

- (d) a conservation park;
- (e) a resources reserve.

State forest means a State forest under the *Forestry Act 1959*.

timber reserve means a timber reserve under the *Forestry Act 1959*.

Division 2 Dedication and revocation

70C Dedication of forest reserves

The Governor in Council may, under a regulation, dedicate a stated area of land as a forest reserve if the area is, or is part of—

- (a) a Land Act reserve; or
- (b) a State forest or timber reserve; or
- (c) unallocated State land.

70D Naming of forest reserves

A regulation may give a name to, or change the name of, a forest reserve.

70E Revocation of forest reserves

- (1) The Governor in Council, may under a regulation, revoke the dedication of a forest reserve or a part of a forest reserve.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.
- (3) However, subsection (2) does not apply if the regulation states the purpose of the revocation is to allow the forest reserve to become a protected area.

Division 3**Management of forest reserves****Subdivision 1****Management principles of forest reserves****70F Management principles**

(1) A forest reserve is to be managed to do the following—

- (a) protect the biological diversity, cultural resources and values and conservation values of land included in the reserve, having regard to the purpose of this part;
- (b) provide for the continuation of any lawful existing use of the land;

Examples of existing uses that may be lawful existing uses—

- 1 apiculture, foliage harvesting, recreation and salvage timber harvesting under the *Forestry Act 1959*
 - 2 grazing under the *Forestry Act 1959* or the *Land Act 1994*
 - 3 maintenance and use of existing roads used for timber extraction and other forest management activities under the *Forestry Act 1959*
 - 4 mining under the *Mineral Resources Act 1989*
- (c) ensure all uses of the land under an authority in relation to the forest reserve made after its dedication are ecologically sustainable;
 - (d) ensure all uses of the land under an authority made after any designation of land in the forest reserve as a proposed protected area are consistent with the management principles for the class of protected area that the land is proposed to become.

(2) However, subsection (1)(b) only applies to the use of the land for commercial logging if the purpose of the logging is to remove plantation trees to restore the land's conservation values.

(3) To remove any doubt, it is declared that the dedication of the land as a forest reserve or any designation of land in the forest reserve as a proposed protected area does not extinguish or

affect native title or native title rights and interests in relation to the land.

(4) In this section—

commercial logging means taking timber for commercial gain, other than—

- (a) to build, maintain or repair public infrastructure or utilities relating to the forest reserve; or
- (b) to enhance or protect a lawful use of the land, or to ensure the use may be carried out safely; or
- (c) to allow native vegetation on the land to be regenerated under a written approval given by the chief executive; or
- (d) for use as firewood; or
- (e) incidentally to a lawful use of the land that does not involve taking timber.

Example for paragraph (e)—

If collecting seeds from trees on the land is lawful, collecting the seeds may involve taking branches from trees that have the seeds on them.

ecologically sustainable, for use of the land, means use within the capacity of the land to sustain natural processes while—

- (a) maintaining the life support systems of nature; and
- (b) ensuring the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations.

make, for an authority, includes renew the authority.

Subdivision 2 Management

70G State forest or timber reserve dedicated as a forest reserve

- (1) This section applies if land in a State forest or timber reserve is dedicated as a forest reserve.
- (2) The land ceases to be land in a State forest or timber reserve.
- (3) However—

- (a) the *Forestry Act 1959* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a State forest or timber reserve; but
 - (b) the *Forestry Act 1959*, section 33⁷ does not apply to the management of the land.
- (4) This section applies despite the *Forestry Act 1959*.

70H Land Act reserve dedicated as a forest reserve

- (1) This section applies if land in a Land Act reserve is dedicated as a forest reserve.
- (2) The land ceases to be land in a Land Act reserve.
- (3) However, the *Land Act 1994* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a Land Act reserve.
- (4) Also, if a person was, immediately before the dedication, a trustee of the land under the *Land Act 1994*, the person continues to be a trustee of the land under that Act.
- (5) This section applies despite the *Land Act 1994*.

70I Management principles prevail

- (1) A forest reserve must be managed under the management principles under section 70F.
- (2) If there is an inconsistency between the management principles and a provision of the *Forestry Act 1959* or the *Land Act 1994*, the management principles prevail to the extent of the inconsistency.
- (3) Despite sections 70G and 70H, an action must not be done in relation to the management of a forest reserve if it is inconsistent with the management principles.
- (4) In this section—
action includes any of the following—

⁷ *Forestry Act 1959*, section 33 (Cardinal principle of management of State forests)

- (a) making, amending or renewing an authority in relation to a forest reserve;
- (b) converting an authority to another form of authority;
- (c) changing the purpose of an authority;
- (d) offering or agreeing to carry out an action under paragraphs (a) to (c).

Division 4 Progression to protected area

Subdivision 1 Review of forest reserves

70J Review

- (1) The chief executive must review each forest reserve to consider the most appropriate class of protected area for land in the reserve.
- (2) The review must start as soon as practicable after the dedication of the forest reserve.

Subdivision 2 Proposed protected areas

70K Designation

- (1) The chief executive may, by an entry in the proposed protected area register, designate the whole or part of a forest reserve as a proposed protected area if—
 - (a) under section 70J the chief executive has reviewed the reserve; and
 - (b) subsections (2) to (5) have been complied with.
- (2) The chief executive must publish a notice of a proposed designation in a newspaper likely to be read by people particularly affected by it.
- (3) The notice must state the following—
 - (a) the location and area of the proposed protected area;

- (b) the class of protected area that the area is proposed to become;
- (c) that any entity may comment about the proposal to the chief executive;
- (d) the period during which comments may be made.
- (4) The stated period must be at least 35 days after the publication of the notice.
- (5) The chief executive must consider any comment about the proposal made during the period.

70L Effect of designation

- (1) Subject to the management principle under section 70F(1)(d), a proposed protected area designation acts as a proposal only and the area continues to be a forest reserve.
- (2) A proposed protected area designation does not—
 - (a) make, or have the effect of making, the area a protected area or a protected area of the class it is proposed to become; or
 - (b) bind the Governor in Council to dedicate, or the chief executive to take action to dedicate, the area as a protected area or as a protected area of that class.

70M When designation ends

The designation of an area as a proposed protected area ends if—

- (a) the dedication of the area as a forest reserve is revoked; or
- (b) the area is dedicated as a protected area.

70N Register of proposed protected areas

- (1) The chief executive must keep a register of proposed protected areas.
- (2) The register must, for each proposed protected area, state—
 - (a) its location and area; and