



Western Australia

Land and Public Works Legislation Amendment Act 2023

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Land and Public Works Legislation Amendment Act 2023

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Western Australia

Land and Public Works Legislation Amendment Act 2023

No. 4 of 2023

An Act to amend the *Land Administration Act 1997* and the *Public Works Act 1902*, and to make consequential and related amendments to other Acts.

[Assented to 24 March 2023]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Land and Public Works Legislation Amendment Act 2023*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Land Administration Act 1997* amended

3. Act amended

This Part amends the *Land Administration Act 1997*.

4. Section 3 amended

- (1) In section 3(1) delete the definitions of:

location or *lot*

State instrumentality

- (2) In section 3(1) insert in alphabetical order:

Board means the Board established by section 94;

Commissioner has the meaning given in the *Soil and Land Conservation Act 1945* section 4;

condition of land, in relation to land under a pastoral lease or a diversification lease, includes the condition of the soil comprising the land and the condition of the vegetation on the land;

DBNGP corridor has the meaning given in the *Dampier to Bunbury Pipeline Act 1997* section 27(1);

diversification lease has the meaning given in section 92B(1);

diversification lessee means the holder of a diversification lease;

location or *lot* has the meaning given in section 3A(1);

management plan has the meaning given in section 108A(2);

public work has the meaning given in the *Public Works Act 1902* section 2;

soil conservation notice means a soil conservation notice issued under the *Soil and Land Conservation Act 1945*;

State instrumentality —

- (a) includes an organisation as defined in the *Public Sector Management Act 1994* section 3(1) and any other body corporate established under a written law; but
 - (b) does not include a local government or a regional local government;
- (3) In section 3(1) in the definition of *land*:
- (a) in paragraph (d) delete “and subsoil”;
 - (b) in paragraph (d) delete “and (c);” and insert:

and (c); and
 - (c) after paragraph (d) insert:

(e) the airspace above, and subsoil beneath,
anything referred to in paragraphs (a) to (d);
- (4) In section 3(1) in the definition of *road* delete “means, subject to section 54,” and insert:

means
- (5) In section 3(3) delete “freehold of” and insert:

freehold in

5. Section 3A inserted

After section 3 insert:

3A. Location or lot

- (1) A *location* or *lot* is a parcel of Crown land that is shown on a plan of survey or sketch plan approved by an authorised land officer.
- (2) A plan of survey or sketch plan may specify that a location or lot shown on it has —
 - (a) a two-dimensional configuration consisting of —
 - (i) length; and
 - (ii) width;or
 - (b) a three-dimensional configuration consisting of —
 - (i) length; and
 - (ii) width; and
 - (iii) height or depth or both.

6. Section 9 replaced

Delete section 9 and insert:

9. Delegation by Minister and chief executive officer of Department

- (1) The Minister may delegate any power or duty of the Minister under another provision of this Act to —
 - (a) the chief executive officer of the Department;or

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- (b) another public service officer of the Department; or
 - (c) the holder for the time being of an office in the Department; or
 - (d) a prescribed person or a person belonging to a prescribed class of persons.
- (2) The Minister can delegate under subsection (1) a power or duty to convey or transfer the fee simple in Crown land only in accordance with the regulations.
 - (3) A person to whom a power or duty is delegated under subsection (1)(b), (c) or (d) cannot delegate that power or duty.
 - (4) The chief executive officer of the Department may delegate to a person referred to in subsection (1)(b), (c) or (d) any power or duty that is delegated to the chief executive officer under subsection (1)(a).
 - (5) A person to whom a power or duty is delegated under subsection (4) cannot delegate that power or duty.
 - (6) A delegation under this section must be in writing signed by the Minister or the chief executive officer of the Department (as the case requires).
 - (7) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
 - (8) Nothing in this section limits the ability of the Minister or the chief executive officer of the Department to perform a function through an officer or agent.
 - (9) This section is subject to Part 9 Division 1 Subdivision 3 and section 273.

7. Section 10 amended

In section 10(3) delete “The” and insert:

Subject to this Act, the

8. Sections 11A and 11B inserted

After section 11 insert:

11A. Minister may hold and deal with alienated land

- (1) The Minister may, in the name and on behalf of the State, hold the freehold in land.
- (2) The Minister may, in the name and on behalf of the State, deal with and dispose of land held in freehold by the Crown, the State or the Minister.
- (3) Without limiting subsection (2), the Minister may —
 - (a) undertake, plan, provide for, promote or coordinate the subdivision, amalgamation, improvement, development, alteration or management of land referred to in that subsection; and
 - (b) carry out any investigation, survey, exploration or feasibility study on, or in relation to, that land.

11B. Powers of Minister in relation to administration and management of land

- (1) The Minister may do all things necessary or convenient to be done for or in connection with the administration

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and management of Crown land and land referred to in section 11A(2).

- (2) Without limiting subsection (1), the Minister may enter into a contract or arrangement with any person or body in respect of the administration or management of land referred to in that subsection.

9. Section 12 amended

- (1) In section 12 delete “The Minister must not exercise a power (other than a power conferred by section 50(1) or (2))” and insert:

- (1) The Minister must not exercise a power

- (2) At the end of section 12 insert:

- (2) Subsection (1) does not apply to —
 - (a) the exercise of a power conferred by section 42(3), 43(1)(a) or (c), 45(2), 50(1) or (2) or 51(2); or
 - (b) the performance of a duty imposed by section 42(4) or 45(4); or
 - (c) the exercise of a power, or the performance of a duty, that is necessary as a consequence of the exercise of a power referred to in paragraph (a); or
 - (d) the exercise of a power conferred by, or the performance of a duty imposed by, Part 9.

10. Section 14 replaced

Delete section 14 and insert:

14. Minister to consult local governments before exercising certain powers in relation to Crown land

- (1) Before exercising in relation to Crown land any power conferred by this Act (other than Part 5), the Minister must, unless it is impracticable to do so, consult the local government of the district in which the Crown land is situated concerning the proposed exercise of power.
- (2) For the purposes of subsection (1), the Minister consults the local government if the Minister —
 - (a) gives written notice of the proposed exercise of power to the local government; and
 - (b) in the notice invites the local government to provide comments on the proposed exercise of power within 42 days after the date of the notice; and
 - (c) considers any comments received within the 42-day period referred to in paragraph (b) or any longer period allowed under subsection (3).
- (3) The Minister may, on application by the local government, allow a longer period for comments in response to a notice given under subsection (2).

11. Section 22 replaced

Delete section 22 and insert:

22. Interest or caveat to continue despite change in status of Crown land

- (1) In this section —
reserve excision order means an order made under section 42(3), 43(1)(a) or (c), 45(2) or 51(1) or (2) that excises an area from a reserve.
- (2) An interest or caveat to which Crown land is subject continues if the Crown land —
 - (a) is, or ceases to be, reserved under section 41; or
 - (b) is, or ceases to be, dedicated, reserved, set apart or vested under another written law.
- (3) Despite subsection (2), if Crown land ceases to be reserved under section 41 as the result of a reserve excision order, an interest or caveat to which the Crown land is subject is extinguished, on registration of the reserve excision order, unless —
 - (a) the interest or caveat only applies to the Crown land; and
 - (b) the reserve excision order specifies that the interest or caveat continues.
- (4) If a lease continues under this section, the Minister may, with the consent of the lessee, vary the terms of the lease and must, if the Minister does so, lodge that variation with the Registrar.
- (5) The continuation of an interest or caveat under this section is subject to the other provisions of this Act.

12. Section 23 amended

(1) In section 23(1):

(a) delete “of, or to subdivide under section 27,” and insert:

of

(b) delete the passage that begins with “incorporating a plan” and ends with “pay compensation.” and insert:

make any adjustment to those boundaries the Minister considers necessary, in accordance with a plan of survey or sketch plan specified in the order, without any obligation to make or pay compensation.

(2) In section 23(2) delete the passage that begins with “approval by” and ends with “sketch plan,” and insert:

registration of an order referred to in subsection (1),

Note: The heading to amended section 23 is to read:

Adjustment of boundaries of Crown land for purposes of survey or resurvey

13. Section 26A amended

In section 26A(1) delete “diagram or plan of survey” and insert:

plan of survey or sketch plan

Note: The heading to amended section 26A is to read:

Names of roads and areas in new subdivision

14. Section 27 amended

(1) Delete section 27(1) and insert:

- (1) The Minister may —
- (a) subdivide, develop, or subdivide and develop, Crown land; and
 - (b) cause funds to be expended on —
 - (i) that subdivision, development, or subdivision and development; and
 - (ii) marketing, planning, surveying and related activities for the purposes of that subdivision, development, or subdivision and development.

(2) Delete section 27(3) and (4) and insert:

- (3) The Minister may, by order —
- (a) for the purposes of subsection (1)(a), subdivide Crown land in accordance with the whole or any part of a plan of survey or sketch plan that shows a proposed subdivision of the land and is specified in the order; and
 - (b) dedicate as a road any Crown land delineated and shown on the plan of survey or sketch plan referred to in paragraph (a) as a new road or an extension or widening of a road.
- (4) Land subdivided under subsection (3)(a) or dedicated under subsection (3)(b) is subject to any encumbrances specified in the order.

Note: The heading to amended section 27 is to read:

Subdivision and development of Crown land

15. Section 28 deleted

Delete section 28.

16. Section 29 amended

In section 29(1)(a) delete “section 27(1)” and insert:

section 27(3)(a)

17. Section 30 amended

(1) In section 30(1)(a) before “public” insert:

relevant

(2) Delete section 30(2) and insert:

(2) In this section —

relevant public authority means —

- (a) a department of the Public Service; or
- (b) an organisation as defined in the *Public Sector Management Act 1994* section 3(1).

18. Section 35 amended

(1) In section 35(1)(b) delete “freehold of” and insert:

freehold in

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- (2) In section 35(2) delete “giving to him or her of” and insert:

respondent is given

- (3) Delete section 35(4) and insert:

- (4) On the registration of an order made under subsection (3) in respect of an interest in Crown land, the interest is forfeited to the State.
- (4A) On the registration of an order made under subsection (3) in respect of the freehold in land (other than land to which subsection (4B) applies) —
- (a) the freehold is forfeited to the State; and
 - (b) at the election of the Minister —
 - (i) the freehold in the land is held by the Minister, in the name of the State; or
 - (ii) the land becomes Crown land.
- (4B) On the registration of an order made under subsection (3) in respect of the freehold in land that is subdivided by a leasehold scheme —
- (a) the freehold is forfeited to the State; and
 - (b) the land remains subdivided; and
 - (c) the freehold reversion in the land is held by the Minister, in the name of the State, until the termination of the leasehold scheme, when, at the election of the Minister —
 - (i) the freehold in the land is held by the Minister, in the name of the State; or
 - (ii) the land becomes Crown land.

- (4C) On the registration of an order made under subsection (3) —
- (a) any moneys paid to the Minister in respect of the relevant interest or freehold cannot be recovered by the respondent; and
 - (b) any improvements made by the respondent on the land to which the relevant interest or freehold relates become the property of the Crown.

- (4) In section 35(5)(a)(i) delete “caveat or other interest” (each occurrence) and insert:

other interest or caveat

- (5) In section 35(6) delete “Crown”.

- (6) In section 35(8)(a) delete “subsection (4)(a)” and insert:

subsection (4), (4A)(a) or (4B)(a)

- (7) In section 35(9) delete “by the Minister of his or her” and insert:

of the Minister’s

- (8) In section 35(10):

- (a) delete “caveat or other interest that” and insert:

other interest or caveat

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(b) delete “unallocated Crown land” and insert:

alienated land or unallocated Crown land, as the case requires,

(9) In section 35(10A) delete “subsection (4)(a)(iii),” and insert:

subsection (4B)(c),

(10) In section 35(11) delete “freehold of,” and insert:

freehold in,

19. Section 42 amended

(1) In section 42(3) delete “subsection (5),” and insert:

subsections (5) and (6),

(2) In section 42(4) delete “subsection (5)” and insert:

subsections (5) and (6)

(3) After section 42(5) insert:

(6) Before acting under subsection (3) or (4) in relation to a managed reserve, the Minister must consult the management body of the reserve in accordance with section 46A.

20. Section 45 amended

- (1) In section 45(2) delete “If” and insert:

Subject to subsections (5) and (5A), if

- (2) In section 45(4) delete “subsection (5),” and insert:

subsections (5) and (5A),

- (3) After section 45(5) insert:

- (5A) Before acting under subsection (2) or (4) in relation to a managed reserve, the Minister must consult the management body of the reserve in accordance with section 46A.

21. Section 46 amended

- (1) In section 46(2) delete “reserve,” and insert:

reserve to which this subsection applies,

- (2) After section 46(2) insert:

- (2A) Subsection (2) applies to an interest within a reserve if the interest —
- (a) was granted by the management body of the reserve; or

- (b) resulted from a transaction to which the management body of the reserve was a party.

22. Section 46A inserted

After section 46 insert:

46A. Consultation with management body

- (1) For the purposes of sections 42(6), 45(5A) and 51(3), the Minister must —
 - (a) give written notice of the proposed action to the management body; and
 - (b) in the notice invite the management body to make submissions on the proposed action within 42 days after the date of the notice; and
 - (c) consider any submission received within the 42-day period referred to in paragraph (b) or any longer period allowed under subsection (2).
- (2) The Minister may, on application by the management body, allow a longer period for submissions in response to a notice given under subsection (1).

23. Section 50 amended

- (1) In section 50(1)(b) delete “management plan which applies to its managed reserve or does not submit a management” and insert:

plan approved under section 49(4) that applies to its managed reserve or does not submit a

- (2) Delete section 50(2) to (4) and insert:
- (2) In the absence of agreement or non-compliance referred to in subsection (1), the Minister may by order revoke a management order if the Minister considers that the revocation is —
- (a) in the public interest; or
 - (b) necessary for the purposes of a public work.
- (3) Despite the revocation of a management order under subsection (1) or (2), an interest in, or caveat in respect of, the reserve to which the management order applied continues, subject to this Act, if the order revoking the management order specifies that the interest or caveat continues.
- (4) An interest in, or caveat in respect of, a reserve that is not continued under subsection (3) is extinguished on registration of the order revoking the management order.
- (4A) In subsections (3) and (4) —
- interest* includes —
- (a) an interest as defined in section 151(1) (other than native title rights and interests as defined in that provision); and
 - (b) an interest under the *Public Works Act 1902*.
- (3) In section 50(5) delete “in existence by subsection (4).” and insert:
- under subsection (3).

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(4) In section 50(7) after “(2),” insert:

(3),

24. Section 51 amended

(1) In section 51:

(a) delete “Subject” and insert:

(1) Subject

(b) delete “purpose of” and insert:

purpose of, reduce the area of, excise an area from

(2) At the end of section 51 insert:

(2) Without limiting subsection (1), the Minister may by order excise an area from a managed reserve (other than a class A reserve or a reserve referred to in section 45(2)) if the Minister considers that the excision is —

(a) in the public interest; or

(b) necessary for the purposes of a public work.

(3) Before acting under subsection (2) in relation to a managed reserve, the Minister must consult the management body of the reserve in accordance with section 46A.

Note: The heading to amended section 51 is to read:

Minister’s powers to cancel, change purpose of or otherwise affect reserve

25. Section 51AA inserted

After section 51 insert:

51AA. Compensation provisions

(1) In this section —

excision order means an order made under section 42(3), 43(1)(a) or (c), 45(2) or 51(2) that excises an area from a managed reserve;

relevant interest means —

- (a) in relation to an excision order — an interest that is extinguished under section 22(3) on registration of the excision order; or
- (b) in relation to a revocation order — an interest that is extinguished under section 50(4) on registration of the revocation order;

revocation order means an order made under section 50(2).

- (2) On the registration of an excision order in relation to a reserve, the management body of the reserve may, unless it is a State instrumentality, claim compensation under section 204(1) for any structure erected or improvement made, in accordance with the terms of the management order, by the management body on the land excised from the reserve, as if the excision order were a taking order under Part 9.
- (3) On the registration of a revocation order in relation to a reserve, the former management body of the reserve may, unless it is a State instrumentality, claim compensation under section 204(1) for any structure erected or improvement made, in accordance with the terms of the revoked management order, by the former

management body on the reserve, as if the revocation order were a taking order under Part 9.

- (4) On the registration of an excision order or revocation order, the holder of a relevant interest may claim compensation for the interest under section 202 as if the excision order or revocation order were a taking order under Part 9 in respect of the interest.
- (5) A management body, former management body or holder of a relevant interest is not otherwise entitled to compensation in respect of the excision of an area from a managed reserve or the revocation of a management order.
- (6) Part 10 applies, with all necessary changes, to a claim for compensation authorised by this section.

26. Section 54 deleted

Delete section 54.

27. Section 55 amended

- (1) In section 55(1) delete the passage that begins with “subsection —” and ends with “so revested.” and insert:

subsection revested in the Crown.

- (2) Delete section 55(3)(b) and insert:

- (b) does not affect —
 - (i) the functions of a local government in respect of a road of which it has the care, control and management; or

- (ii) any encumbrances to which land comprising a road is subject under section 27(4) or 56(3A) or the *Planning and Development Act 2005* section 168(10).
- (3) In section 55(4) delete “private”.
- (4) After section 55(4) insert:
 - (5) If land comprising a road is in the DBNGP corridor, the operation of subsections (1) and (2) does not affect State corridor rights or other rights conferred under the *Dampier to Bunbury Pipeline Act 1997* in respect of that land.

28. Section 56 amended

- (1) In section 56(3):
 - (a) delete “delivered to him or her”;
 - (b) in paragraph (b) delete “such matters as he or she thinks fit to mention” and insert:

any matters the Minister specifies
- (2) After section 56(3) insert:
 - (3A) Land dedicated under subsection (3)(a) is subject to any encumbrances specified in the order.
- (3) In section 56(5)(a) delete “unallocated”.
- (4) In section 56(6) delete “referred to in subsection (1)(b) or (c)”.

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29. Section 57 amended

In section 57(2) after “section 58” insert:

or 58A

30. Section 58 replaced

Delete section 58 and insert:

58. Closure of road at request of local government

- (1) If a local government considers that a road in its district should be closed permanently, the local government may, in accordance with the regulations, request the Minister to close the road.
- (2) After receiving a request under subsection (1), the Minister may —
 - (a) by order grant the request; or
 - (b) direct the local government to reconsider the request, having regard to any matters the Minister specifies in the direction; or
 - (c) refuse the request.
- (3) If the Minister makes an order under subsection (2)(a) in relation to a road —
 - (a) the road is closed on and from the day on which the order is registered; and
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.

- (4) The closure of a road under this section does not affect —
- (a) any encumbrances to which the land that comprised the road was subject when the road was closed; or
 - (b) if the land that comprised the road is in the DBNGP corridor — State corridor rights or other rights conferred under the *Dampier to Bunbury Pipeline Act 1997* in respect of that land.
- (5) The regulations may —
- (a) prescribe procedures to be followed by a local government before making a request under subsection (1), including procedures for the publication of a proposed request and consultation; and
 - (b) require a request under subsection (1) to include prescribed information; and
 - (c) require a request under subsection (1) to be accompanied by prescribed information or a prescribed document.

58A. Closure of road on Minister’s own initiative

- (1) The Minister may by order close a road in the district of a local government if the Minister considers that the road should be closed permanently.
- (2) Before making an order under subsection (1) the Minister must —
- (a) give written notice of the proposed closure to the local government and in the notice invite the local government to make submissions on the proposed closure within 35 days after the date of the notice; and

- (b) advertise the proposed closure in the prescribed manner and in the advertisement invite members of the public to make submissions on the proposed closure within 35 days after the date of the advertisement; and
- (c) consider submissions received —
 - (i) from the local government within the 35-day period referred to in paragraph (a); and
 - (ii) from members of the public within the 35-day period referred to in paragraph (b); and
 - (ii) from the local government or members of the public within any longer period allowed under subsection (3).
- (3) The Minister may, on application by the local government or a member of the public (as the case requires), allow a longer period for submissions in response to a notice given under subsection (2)(a) or an advertisement under subsection (2)(b).
- (4) If the Minister makes an order under subsection (1) in relation to a road —
 - (a) the road is closed on and from the day on which the order is registered; and
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.
- (5) The closure of a road under this section does not affect —
 - (a) any encumbrances to which the land that comprised the road was subject when the road was closed; or

- (b) if the land that comprised the road is in the DBNGP corridor — State corridor rights or other rights conferred under the *Dampier to Bunbury Pipeline Act 1997* in respect of that land.

31. Section 59 amended

In section 59(5)(a) delete “section 58(6)” and insert:

section 58(4)

32. Section 64 amended

In section 64(1)(d) delete “diagram or plan incorporated” and insert:

plan of survey or sketch plan specified

33. Section 65 amended

In section 65(3) delete “diagram or plan incorporated” and insert:

plan of survey or sketch plan specified

34. Section 75 amended

After section 75(4) insert:

- (4A) If the holder of the freehold in conditional tenure land fails to use that land for the specified use and the Minister considers that the failure is unreasonable in all

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the circumstances, subsection (4) applies as if the failure were a breach of the conditions concerning the specified use of that land.

35. Section 79 amended

- (1) In section 79(1) delete “Subject to Part 7, the” and insert:

The

- (2) In section 79(4) delete “term of a lease, other than a pastoral lease, having effect under this Act or vary the provisions of such” and insert:

term, or vary the provisions, of

- (3) After section 79(5) insert:

- (6) The operation of this section is subject to Parts 6A and 7.

36. Section 81 amended

After section 81(3) insert:

- (4) Subsections (2) and (3) do not apply to the surrender of a pastoral lease.

37. Section 81A inserted

At the end of Part 6 Division 3 insert:

81A. Removal of expired registered leases from certificate of Crown land title

- (1) In this section —
term, in relation to a registered lease, includes any period for which the lease was extended under section 79(4) or renewed under an option to renew.
- (2) This section applies if —
 - (a) at least 12 months have passed since the expiry of the term of a registered lease; and
 - (b) the Minister is satisfied that —
 - (i) the former lessee is no longer in occupation of the land that was the subject of the lease; and
 - (ii) there is no ongoing tenancy arrangement between the former lessor and the former lessee; and
 - (iii) the former lessor is no longer collecting rent from the former lessee; and
 - (iv) any other requirements prescribed for the purposes of this paragraph have been met.
- (3) The Minister may direct the Registrar to remove from the certificate of Crown land title or qualified certificate of Crown land title on which the lease is registered —
 - (a) the lease; and
 - (b) any encumbrance registered in respect of the lease.

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- (4) The Registrar must comply with a direction given under subsection (3).

38. Section 87 amended

In section 87(3)(c) delete “that Part” and insert:

Part 10

39. Section 89 amended

In section 89(1) before “pastoral” insert:

diversification lease or

40. Section 92 amended

- (1) In section 92(1) delete “granted under this Part”.
- (2) Delete section 92(2) and insert:
- (2) Subsection (1) does not apply to a lease if —
- (a) the lease is a pastoral lease; or
 - (b) the lease contains express provision to the contrary; or
 - (c) the lease is renewed under an option to renew the lease; or
 - (d) the relevant Crown land is transferred in fee simple to the lessee; or
 - (e) immediately after the termination of the lease, a new lease held by the same lessee commences over the relevant Crown land.

41. Part 6A inserted

After section 92 insert:

Part 6A — Diversification leases

Division 1 — Application of Part

92A. Leases to which this Part applies

This Part does not apply to a lease unless the lease specifies that it is granted under section 92B.

Division 2 — Grant of diversification lease

92B. Minister's powers as to grant of diversification lease

- (1) The Minister may grant a lease (a *diversification lease*) over Crown land in accordance with Part 6 and this Part.
- (2) A diversification lease may be granted for any purpose or purposes.

Division 3 — Conditions of diversification lease

92C. Provisions that can be included in diversification lease

- (1) The Minister may include in a diversification lease any terms, reservations, conditions, covenants or penalties not inconsistent with this Act.
- (2) A diversification lease may include 1 or more options to renew the lease.
- (3) A diversification lease cannot include an option to purchase the fee simple of the Crown land leased.

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- (4) The Minister may, when granting a diversification lease or at any time during the term of a diversification lease, identify in the diversification lease any land under the lease for the purposes of the *Mining Act 1978* section 20(5AA).
- (5) Subsection (4) does not limit the power of the Minister under section 79(4) to vary the provisions of a diversification lease.

92D. Non-exclusive possession of land under diversification lease

A diversification lease does not confer a right of exclusive possession on the diversification lessee.

92E. Reservation in favour of Aboriginal persons

Aboriginal persons may at all times enter upon any unenclosed and unimproved parts of the land under a diversification lease to seek their sustenance in their accustomed manner.

92F. Diversification lessee's duties as to leased land

- (1) A diversification lessee must, to the satisfaction of the Minister, manage the land under the lease using methods of best environmental management practice appropriate to the area where the land is situated, having regard to the permitted use or uses of the land.
- (2) Without limiting subsection (1), a diversification lessee must, to the satisfaction of the Minister —
 - (a) maintain the condition of land under the lease; and
 - (b) take measures to prevent or mitigate the effects of land degradation (as defined in the *Soil and Land Conservation Act 1945* section 4) on land under the lease.

Division 4 — Forfeiture of diversification lease

92G. Issue of forfeiture notice

If the Minister is satisfied that a diversification lessee has failed to comply with a provision of this Act or of the lease, the lease is liable to forfeiture under section 35 as if that failure to comply were the breach of a condition or covenant referred to in that section.

92H. Criminal liability not affected by forfeiture

- (1) The liability of any person to be prosecuted for an offence against this Act or the *Soil and Land Conservation Act 1945* is not affected by the forfeiture of a diversification lease to which the offence related.
- (2) The liability of any person to the forfeiture of a diversification lease is not affected by the imposition of a penalty for an offence in relation to a matter to which the liability to forfeiture related.

Division 5 — Notification of certain soil conservation notices

92I. Commissioner to notify Minister of certain soil conservation notices

Without affecting or limiting the powers of the Commissioner in relation to diversification leases, before issuing a soil conservation notice that relates to land under a diversification lease the Commissioner must notify the Minister in writing of the terms of the proposed notice.

42. Section 93 amended

- (1) In section 93 delete the definitions of:

Board

Commissioner

soil conservation notice

- (2) In section 93 insert in alphabetical order:

approved land management accreditation system

means a land management accreditation system approved by the Minister under section 100C(2);

certified pastoral lessee means a pastoral lessee who is currently certified under an approved land management accreditation system that applies to the lease;

land condition standards has the meaning given in section 100A(1);

land management accreditation system has the meaning given in section 100C(1);

land management guidelines has the meaning given in section 100A(3);

permitted stock means —

- (a) authorised stock; and
- (b) prohibited stock for which a permit has been issued under section 122A;

- (3) In section 93 in the definition of *prohibited stock* delete “stock;” and insert:

stock.

43. Section 97 amended

(1) In section 97(1):

- (a) in paragraph (d) delete “from among persons” and insert:

on the recommendation of the Minister administering the *Environmental Protection Act 1986*, and is to be a person

- (b) in paragraph (e) delete “from among Aboriginal persons” and insert:

on the recommendation of the Minister administering the *Aboriginal Affairs Planning Authority Act 1972*, and is to be an Aboriginal person

(2) In section 97(3) delete “to whom he or she is” and insert:

for whom they are

44. Section 99 amended

(1) In section 99(2) delete “person” and insert:

member

(2) Delete section 99(3) and (4).

45. Part 7 Division 2A inserted

After Part 7 Division 2 insert:

Division 2A — Standards, guidelines and accreditation systems

100A. Land condition standards and land management guidelines

- (1) The Board may issue standards (*land condition standards*) setting out benchmarks and objectives in relation to the condition of land held under pastoral leases.
- (2) The Board must consult the Commissioner before —
 - (a) issuing land condition standards; or
 - (b) amending or revoking land condition standards.
- (3) The Board may issue guidelines (*land management guidelines*) that provide guidance on best practice for the management of land held under pastoral leases.
- (4) The purpose of land condition standards and land management guidelines is —
 - (a) to assist the Board and the Minister in the performance of functions under this Part; and
 - (b) to provide information and guidance to pastoral lessees and other persons or bodies that might be affected by, or have an interest in, decisions under this Part; and
 - (c) to assist in the development of land management accreditation systems to be approved by the Minister under section 100C.

- (5) Without limiting subsections (1) and (3), land condition standards and land management guidelines may —
 - (a) apply to all pastoral leases or to pastoral leases in a particular region of the State or of a particular class; or
 - (b) make different provision in relation to pastoral leases in different regions of the State or pastoral leases of different classes.
- (6) The powers conferred on the Board under subsection (1) to issue land condition standards and under subsection (3) to issue land management guidelines include the power to amend or revoke those standards and guidelines.
- (7) Land condition standards and land management guidelines, and any amendment to or revocation of those standards or guidelines, must be published in the prescribed way.

100B. Regard to standards and guidelines in performance of functions under this Part

- (1) Subject to subsection (2), the Board and the Minister may have regard to land condition standards and land management guidelines in performing functions under this Part.
- (2) The Board must have regard to land condition standards and land management guidelines in performing functions under sections 108C, 109(2) and 111A(1).
- (3) Nothing in subsection (1) or (2) —
 - (a) derogates from the duty of the Board or Minister to exercise their discretion in a particular case; or

- (b) precludes the Board or Minister from having regard to matters not set out in land condition standards or land management guidelines; or
- (c) requires the Board or Minister to have regard to land condition standards or land management guidelines that are inconsistent with a provision of this Act.

100C. Minister may approve land management accreditation systems

- (1) For the purposes of this Part, a *land management accreditation system* is a system, participation in which is voluntary, and the purpose of which is to —
 - (a) improve the condition and management of land held under pastoral leases by encouraging best practice in the management of the land; and
 - (b) give pastoral lessees the opportunity to formally demonstrate best practice in the management of land, by providing for a process under which pastoral lessees can, if they meet the requirements of the system, receive and maintain certification under the system.
- (2) The Minister may approve one or more land management accreditation systems.
- (3) The Minister must not approve a land management accreditation system unless the Minister is satisfied that the system is consistent with land condition standards and land management guidelines.
- (4) The power conferred on the Minister under subsection (2) to approve a land management accreditation system includes the power to revoke that approval.

- (5) The following must be published in the prescribed way —
 - (a) notice of the approval of a land management accreditation system and a document setting out the approved system;
 - (b) notice of the revocation of an approval of a land management accreditation system.

100D. Status of standards, guidelines and approved systems

- (1) Land condition standards, land management guidelines and approved land management accreditation systems are not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (2) If there is an inconsistency between a provision of this Act and a provision of land condition standards, land management guidelines or an approved land management accreditation system, the provision of this Act prevails.

46. Section 101 amended

- (1) Delete section 101(3).
- (2) After section 101(5) insert:
 - (6) Subsections (2) and (5) do not apply in relation to the following —
 - (a) a renewal or grant of a lease offered under section 140;
 - (b) a grant of a lease in the circumstances referred to in section 105A(1)(b).

47. Section 102 amended

- (1) In section 102(1) delete “State —” and insert:

State or by any other method that is prescribed —

- (2) After section 102(1) insert:

- (1A) Subsection (1) does not apply in relation to the following —

- (a) a renewal or grant of a lease offered under section 140;
- (b) a grant of a lease in the circumstances referred to in section 105A(1)(b).

48. Section 105 amended

- (1) Delete section 105(1) and (2) and insert:

- (1) The term of a pastoral lease —

- (a) must be specified in the lease; and
- (b) cannot exceed 50 years, including any extension under section 105A(1)(a).

- (2) A renewal or grant of a lease offered under section 140 in relation to a pastoral lease (the *expiring lease*) cannot be for a term greater than the term of the expiring lease (including any extension granted in relation to the expiring lease under section 105A(1)(a)).

- (2) In section 105(3) delete “most recent previous lease referred to in that subsection” and insert:

expiring lease

49. Sections 105A and 105B inserted

After section 105 insert:

105A. Extension of pastoral lease or grant of pastoral lease for greater term

- (1) If the term of a pastoral lease is less than 50 years, on application by the lessee the Minister may in writing —
- (a) extend the term of the lease; or
 - (b) accept the surrender of the lease (the *surrendered lease*) and grant under section 101 a new lease to the lessee —
 - (i) for a term greater than the term of the surrendered lease; and
 - (ii) over the whole or part of the land that was held under the surrendered lease; and
 - (iii) on the conditions referred to in subsection (2).
- (2) For the purposes of subsection (1)(b)(iii), the new lease is to be granted —
- (a) on the standard pastoral lease conditions prescribed under section 275(1)(ga) as at the date that the new lease is granted; or

- (b) if no standard pastoral lease conditions are prescribed, on the same conditions as the conditions of the surrendered lease or on different conditions.
- (3) The Minister must have regard to whether a pastoral lessee is a certified pastoral lessee in exercising the Minister's powers under this section.
- (4) The Minister must obtain the advice of the Board before exercising the Minister's powers under this section.
- (5) If the term of a pastoral lease is extended under subsection (1)(a), any sublease or other interest granted under that lease continues to have effect to the extent specified in the extension.

105B. Agreements relating to extension or grant of lease under s. 105A

- (1) The Minister may agree in writing with a pastoral lessee to extend the term of a lease under section 105A(1)(a), or to grant a new lease under section 105A(1)(b), subject to the lessee complying with conditions specified in the agreement.
- (2) The conditions specified in the agreement may include conditions related to ensuring that the extension of the term of the lease or the grant of the new lease (as the case requires) is a valid future act under, and otherwise complies with, the *Native Title Act 1993* (Commonwealth).
- (3) Subsection (4) applies if the Minister is satisfied that —
 - (a) the pastoral lessee has complied with the conditions specified in the agreement; and

- (b) the extension of the term of the lease or the grant of the new lease (as the case requires) is a valid future act under, and otherwise complies with, the *Native Title Act 1993* (Commonwealth).
- (4) The Minister must extend the term of the lease under section 105A(1)(a) or grant a new lease under section 105A(1)(b) (as the case requires), in accordance with the terms of the agreement.

50. Section 107 amended

- (1) Delete section 107(1) and (2).
- (2) In section 107(3) delete “The” and insert:

A pastoral

Note: The heading to amended section 107 is to read:

Improvements must be kept in good condition

51. Section 108 amended

- (1) In section 108(2) after “management of” insert:

permitted

- (2) Delete section 108(6).

52. Sections 108A to 108C inserted

After section 108 insert:

108A. Board may direct pastoral lessee to submit management plan

- (1) This section applies if the Board is satisfied that a pastoral lessee —
 - (a) is not managing the land under the lease, or permitted stock on that land, in accordance with this Part, in particular section 108; or
 - (b) has contravened any condition of the lease that relates to the use or management of land or the management of permitted stock under the lease.
- (2) If this section applies, the Board may give a written direction to the lessee to submit to the Board a plan (a *management plan*) in relation to any of the following —
 - (a) the improvement of the condition of land under the lease;
 - (b) the implementation of specified pastoral and environmental management practices;
 - (c) any monitoring and assessment of the condition of land under the lease the lessee is directed to undertake under section 108C(2);
 - (d) the control of any declared pest, in accordance with the *Biosecurity and Agriculture Management Act 2007*;
 - (e) the remediation and management of soil erosion;
 - (f) the construction, repair and maintenance of improvements;

- (g) the management of permitted stock on the land.

108B. Submission, approval and implementation of management plan

- (1) If the Board directs a pastoral lessee under section 108A(2) to submit a management plan to the Board, the lessee must submit the management plan by the date specified in the direction.
- (2) The Board may —
 - (a) approve the management plan; or
 - (b) require the lessee to make specified amendments to the management plan and resubmit it to the Board.
- (3) The lessee must comply with a requirement made under subsection (2)(b).
- (4) The lessee must implement the management plan approved by the Board.
- (5) The lessee must submit to the Board a report on the lessee's implementation of the management plan —
 - (a) in the manner and within the timeframes set out in the management plan; and
 - (b) at other times directed by the Board.
- (6) The Board may, with the agreement of the lessee, approve amendments to the management plan.

108C. Board may direct pastoral lessee to monitor and report land condition

- (1) This section applies if the Board is satisfied that a pastoral lessee —
 - (a) is not managing the land under the lease, or permitted stock on that land, in accordance with this Part, in particular section 108; or

- (b) has contravened any condition of the lease that relates to the use or management of land or the management of permitted stock under the lease.
- (2) If this section applies, the Board may give a written direction to the lessee —
 - (a) to monitor and assess the condition of land under the lease in accordance with the regulations; and
 - (b) to submit to the Board, on or before the date or dates in each year specified in the direction, a report relating to the condition of land under the lease that —
 - (i) contains the information specified in the direction; and
 - (ii) presents that information in the manner specified in the direction.
- (3) A direction under subsection (2) may be given in conjunction with a direction under section 108A(2) or at any other time.
- (4) A pastoral lessee must comply with a direction given to the lessee under subsection (2).
- (5) A pastoral lessee must not, without reasonable excuse, fail to submit a report referred to in subsection (2)(b) in accordance with a direction given to the lessee under subsection (2).

Penalty for this subsection:

- (a) a fine of \$4 000;
- (b) a daily penalty of a fine of \$400 for each day or part of a day during which the offence continues.

- (6) A pastoral lessee must not provide information in a report referred to in subsection (2)(b) knowing the information to be false or misleading in a material particular.

Penalty for this subsection: imprisonment for 12 months or a fine of \$15 000.

53. Section 111 amended

- (1) Delete section 111(1), (2) and (5).

- (2) In section 111(6):

- (a) after “If” insert:

authorised

- (b) delete “stock after the commencement day,” and insert:

stock,

- (c) delete “the stock” and insert:

the authorised stock

- (3) Delete section 111(7) and (8).

Note: The heading to amended section 111 is to read:

Pests and prohibited stock on leased land

54. Sections 111A and 111B inserted

After section 111 insert:

111A. Board may make determinations and directions as to number and distribution of stock

- (1) The Board may from time to time determine the minimum and maximum numbers and the distribution of permitted stock to be carried on land under a pastoral lease.
- (2) The Board must give the pastoral lessee written notice of a determination under subsection (1).
- (3) The Board may give a written direction to a pastoral lessee to remove a specified number of permitted stock from land under the pastoral lease by the day specified in the direction.
- (4) A determination under subsection (1) or direction under subsection (3) must be based on the Board's assessment of the sustainable carrying capacity of the land and have regard to seasonal factors.
- (5) Unless section 112(1) applies, a pastoral lessee must comply with —
 - (a) a determination notice of which is given to the lessee under subsection (2); and
 - (b) a direction given to the lessee under subsection (3).

111B. Board may require evidence of compliance with s. 111A

- (1) The Board may give a written direction to a pastoral lessee to provide, by the day specified in the direction,

any evidence of the lessee's compliance with section 111A(5) that is specified in the direction.

- (2) A pastoral lessee must not, without reasonable excuse, fail to comply with a direction given to the lessee under subsection (1).

Penalty for this subsection:

- (a) a fine of \$4 000;
- (b) a daily penalty of a fine of \$400 for each day or part of a day during which the offence continues.
- (3) A pastoral lessee must not provide information in accordance with a direction given to the lessee under subsection (1) knowing the information to be false or misleading in a material particular.

Penalty for this subsection: imprisonment for 12 months or a fine of \$15 000.

55. Section 112 amended

- (1) Delete section 112(1) and insert:

- (1) If a soil conservation notice is issued as to the numbers or distribution of permitted stock on land under a pastoral lease, the notice has the effect while it is in force of suspending the following to the extent of any inconsistency —
- (a) a determination notice of which is given to the lessee under section 111A(2);
- (b) a direction given to the lessee under section 111A(3);
- (c) the operation of a permit issued under Division 5.

- (2) Delete section 112(3).

Note: The heading to amended section 112 is to read:

Effect of soil conservation notice on determinations and directions under s. 111A and permits under Div. 5

56. Section 113 replaced

Delete section 113 and insert:

112A. Effect on rent if reduction in stock numbers

- (1) This section applies if the numbers of permitted stock to be carried on land under a pastoral lease are reduced —
- (a) by a soil conservation notice; or
 - (b) by a determination notice of which is given to the lessee under section 111A(2); or
 - (c) by a direction given to the lessee under section 111A(3); or
 - (d) in accordance with a management plan approved under section 108B.
- (2) The Minister, on the advice of the Board, may reduce the rent for the pastoral lease in proportion to the reduction in permitted stock.

113. Pastoral lessee to submit annual return

- (1) In this section —
- due date*** means —
- (a) 31 March; or
 - (b) if the regulations prescribe a different date, that date;

return end date means —

- (a) 31 December; or
- (b) if the regulations prescribe a different date, that date;

return period, for a pastoral lease, means —

- (a) 12 months ending on the return end date; or
- (b) if the lease is granted in that period, the period commencing on the date the lease is granted and ending on the return end date; or
- (c) if the regulations prescribe a different period, that period.

- (2) A pastoral lessee must, on or before the due date in each year, submit to the Board a return that relates to the land under the lease, and the activities on the land, during the preceding return period.

Penalty for this subsection:

- (a) a fine of \$4 000;
 - (b) a daily penalty of a fine of \$400 for each day or part of a day during which the offence continues.
- (3) The return must be in an approved form and contain the following information —
 - (a) permitted stock numbers on the return end date;
 - (b) full particulars, including costs, of all improvements effected on the land under the lease in the return period;
 - (c) full particulars of the use, in the return period, of each area of land affected by a permit issued under Division 5;
 - (d) any other information the form requires.

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- (4) A pastoral lessee must not, without reasonable excuse, fail to provide in a return any information required under subsection (3).

Penalty for this subsection: a fine of \$4 000.

- (5) A pastoral lessee must not provide information in a return knowing the information to be false or misleading in a material particular.

Penalty for this subsection: imprisonment for 12 months or a fine of \$15 000.

57. Section 115 amended

In section 115(1) delete “issue” and insert:

issue, renewal, transfer and amendment

58. Section 117 replaced

Delete section 117 and insert:

117. Environmental conservation requirements to be complied with

The Board must not issue a permit under this Division unless —

- (a) the Board is satisfied that any requirements that apply under the following written laws in relation to the activity proposed to be carried out under the permit have been complied with —

- (i) the *Biodiversity Conservation Act 2016*;
(ii) the *Biosecurity and Agriculture Management Act 2007*;

- (iii) the *Environmental Protection Act 1986*;
- (iv) the *Soil and Land Conservation Act 1945*;
- (v) any other written law relating to environmental conservation that is applicable to the land under the lease;

or

- (b) the permit is subject to a condition that any requirements that apply under the written laws referred to in paragraph (a) will be complied with before any activity is carried out under the permit.

59. Sections 122B to 122F inserted

At the end of Part 7 Division 5 insert:

122B. Board's power to amend permit

The Board may, with the consent of the permit holder, amend the terms and conditions of a permit issued under this Division.

122C. Renewal of permit

- (1) The holder of a permit (the *expiring permit*) under this Division may apply in writing to the Board for the expiring permit to be renewed.
- (2) An application under subsection (1) must be made not more than 12 months, and not less than 6 months, before the expiry of the expiring permit.
- (3) The Board may renew the expiring permit —
 - (a) for the same period as the period of the expiring permit or a different period; and

- (b) on the same conditions as the conditions of the expiring permit or on different conditions.

122D. Suspension of permit

- (1) The Board may suspend a permit issued under this Division if the Board is satisfied that —
 - (a) there has been a breach of a condition to which the permit is subject; or
 - (b) information contained in, or provided in support of, the application for the permit was false or misleading in a material particular.
- (2) Before suspending a permit, the Board must —
 - (a) give written notice to the permit holder of the grounds on which the Board intends to suspend the permit; and
 - (b) give the permit holder a reasonable opportunity to provide any information that the permit holder thinks is relevant to the decision to suspend the permit.
- (3) The Board must give a permit holder written notice of the following —
 - (a) the Board's decision to suspend, or not suspend, the permit;
 - (b) if the permit is to be suspended —
 - (i) the day on which the suspension takes effect and the period of the suspension;
 - (ii) any conditions of the permit that the permit holder must continue to comply with during the period of the suspension;

- (iii) any action that the permit holder must take in order for the suspension to be lifted.
- (4) The Board may lift the suspension of a permit by notice in writing given to the permit holder.
- (5) The Board may extend the period of the suspension of a permit by notice in writing given to the permit holder.
- (6) The suspension of a permit does not affect the application or operation of section 125 in relation to the permit holder.
- (7) The permit holder must comply with a notice under subsection (3) to the extent that it is given under subsection (3)(b)(ii).

122E. Cancellation of permit

- (1) The Board may cancel a permit issued under this Division if the Board is satisfied that —
 - (a) there has been a breach of a condition to which the permit is subject (including a condition mentioned in section 122D(3)(b)(ii)); or
 - (b) information contained in, or provided in support of, the application for the permit was false or misleading in a material particular.
- (2) Before cancelling a permit, the Board must —
 - (a) give written notice to the permit holder of the grounds on which the Board intends to cancel the permit; and
 - (b) give the permit holder a reasonable opportunity to provide any information that the permit holder thinks is relevant to the decision to cancel the permit.

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- (3) The Board must give a permit holder written notice of the following —
 - (a) the Board’s decision to cancel, or not cancel, the permit;
 - (b) if the permit is to be cancelled — the day on which the cancellation takes effect.
- (4) If a permit is cancelled under this section, the amount of rent payable for the lease must be adjusted in accordance with Division 6.

122F. Permit not personal property for *Personal Property Securities Act 2009* (Commonwealth)

If a permit issued under this Division is transferable by the permit holder, in accordance with paragraph (d) of the definition of *licence* in the *Personal Property Securities Act 2009* (Commonwealth) section 10, the permit is declared not to be personal property for the purposes of that Act.

60. Section 123 replaced

Delete section 123 and insert:

122G. Terms used

In this Division —

commencement day means the day on which the *Land and Public Works Legislation Amendment Act 2023* section 60 comes into operation;

corresponding quarter, in relation to a determination under section 122H(1) or 122I(2), means the quarter in the calendar year immediately preceding the calendar year in which the determination is made that corresponds to the previous quarter;

CPI number means the Consumer Price Index, All Groups index number for Perth published by the Australian Bureau of Statistics established by the *Australian Bureau of Statistics Act 1975* (Commonwealth) section 5(1);

first CPI determination day means —

- (a) if commencement day is on or before 31 December 2023 — 31 December 2023; or
- (b) otherwise — 31 December next following commencement day;

permit rent, in relation to a pastoral lease, has the meaning given in section 124(1);

previous quarter, in relation to a determination under section 122H(1) or 122I(2), means the most recent quarter ending before the determination is made for which a CPI number is available;

previous Valuer-General determination date means —

- (a) in relation to a determination under section 123A(2) or 123B(1) made on or before 31 December 2028 — 1 July in the most recent calendar year in which the Valuer-General determined rents under section 123(4) (as in force immediately before commencement day); or
- (b) in relation to a determination under section 123A(2) or 123B(1) made after 31 December 2028 — 1 July in the most recent rent review year before the calendar year in which the determination is made;

rent review year means —

- (a) 2028; or
- (b) every 10th calendar year after that year.

122H. Minister to determine annual rent

- (1) Subject to subsection (2) and section 124A(5), on the first CPI determination day and on each 31 December after that day the Minister must determine in accordance with subsection (3) the annual rent payable for each pastoral lease.
- (2) The Minister must not make a determination under subsection (1) —
 - (a) in a rent review year; or
 - (b) in respect of a lease in a calendar year in which the Valuer-General makes a determination under section 123A(2) in respect of the lease.

- (3) For the purposes of subsection (1), the annual rent payable for a pastoral lease must be determined using the following formula —

$$AR = B \times \left(\frac{CPI_r}{CPI_{r-4}} \right)$$

where —

- AR is the annual rent;
- B is the base annual rent as referred to in subsection (4);
- CPI_r is the CPI number for the previous quarter;
- CPI_{r-4} is the CPI number for the corresponding quarter.
- (4) For the purposes of subsection (3), the base annual rent is —
 - (a) for a determination made on the first CPI determination day, the lower of the following amounts —

- (i) the annual rent for the pastoral lease that applies immediately before the determination is made;
 - (ii) the average of the annual rents for the pastoral lease determined by the Valuer-General under section 123(4) (as in force immediately before commencement day) as at 1 July 1999 and as at the 1 July of each 5th year after that date;
 - and
 - (b) for any other determination — the annual rent for the pastoral lease that applies immediately before the determination is made.
- (5) A determination under subsection (1) of the annual rent payable for a pastoral lease —
- (a) unless subsection (6) applies, comes into effect on 1 July next following the making of the determination; and
 - (b) applies to the lease until a new determination under subsection (1) or section 123(1)(a) or 123A(4)(b) comes into effect in respect of the lease.
- (6) A determination under subsection (1) of the annual rent payable for a pastoral lease does not come into effect under subsection (5)(a) if, in the period between the making of the determination and 1 July next following, a determination under section 123A(4)(b) comes into effect in respect of the lease.
- (7) Subsection (5) is subject to sections 112A(2), 127, 134(8), 141(3) and 254.

- (8) A reference in this section to the annual rent for a pastoral lease does not include any permit rent determined in respect of the lease by the Minister under section 122I(2) or by the Valuer-General under section 124(3) (whether before, on or after commencement day).

122I. Minister to determine permit rent if pastoral lease subject to permit

- (1) This section applies if a pastoral lessee is the holder of a permit issued under Division 5 that is subject to a condition of the kind referred to in section 124(1) (whether that condition was imposed before, on or after commencement day).
- (2) Subject to subsection (3), on the first CPI determination day and on each 31 December after that day the Minister must determine in accordance with subsection (4) the permit rent payable in respect of the lease.
- (3) The Minister must not make a determination under subsection (2) in respect of the lease in a calendar year in which the Valuer-General makes a determination under section 124(3) in respect of the lease.
- (4) For the purposes of subsection (2), the permit rent payable in respect of the lease must be determined using the following formula —

$$PR = B \times \left(\frac{CPI_r}{CPI_{r-4}} \right)$$

where —

PR is the permit rent;

B is the permit rent that applies immediately before the determination is made;

CPI_r is the CPI number for the previous quarter;

CPI_{r-4} is the CPI number for the corresponding quarter.

- (5) A determination under subsection (2) of the permit rent payable in respect of a pastoral lease —
- (a) unless subsection (6) applies, comes into effect on 1 July next following the making of the determination; and
 - (b) applies in addition to, and does not affect, a determination under section 122H(1), 123(1)(a), 123A(4)(b) or 123B(3)(b); and
 - (c) applies until a new determination under subsection (2) or section 124(3) comes into effect in respect of the lease.
- (6) A determination under subsection (2) of the permit rent payable in respect of a pastoral lease does not come into effect under subsection (5)(a) if, in the period between the making of the determination and 1 July next following, a determination under section 124(3) comes into effect in respect of the lease.

123. Valuer-General to determine annual rent at 10 yearly intervals

- (1) In each rent review year, the Valuer-General must —
- (a) determine the annual rent payable for each pastoral lease in accordance with subsection (2); and
 - (b) on or before 31 December (the *determination day*) in that year give the determination to the Minister.

- (2) For the purposes of subsection (1)(a), the annual rent payable for a pastoral lease is the amount of ground rent that, as at 1 July in the rent review year, the land might reasonably be expected to realise in good condition for a long-term lease for pastoral purposes under which all normal outgoings are paid by the lessee.
- (3) A determination under subsection (1)(a) of the annual rent payable for a pastoral lease —
 - (a) comes into effect on 1 July next following the determination day; and
 - (b) applies until a new determination under section 122H(1) or 123A(4)(b) comes into effect in respect of the lease.
- (4) Subsection (3) is subject to sections 112A(2), 124A, 127, 134(8), 141(3) and 254.
- (5) In determining the annual rent payable for a pastoral lease under subsection (1)(a), the Valuer-General must consult the Board about the economic state of the pastoral industry.

123A. Minister may request Valuer-General to make interim determination of annual rent

- (1) The Minister may, at any time, request the Valuer-General to make a determination under this section in relation to a pastoral lease if the Minister is satisfied that it is necessary or expedient to do so because of —
 - (a) a change in the area of the land under the lease since the annual rent for the lease was last determined under this Division; or

- (b) any other change in relation to the lease, since the annual rent for the lease was last determined under this Division, that the Minister considers may materially affect that determination.
- (2) If the Minister makes a request under subsection (1) in relation to a pastoral lease, the Valuer-General must in accordance with subsection (3) determine a rent for the lease.
- (3) For the purposes of subsection (2), the rent for the lease is the amount of ground rent that, as at the previous Valuer-General determination date, the land might reasonably be expected to realise in good condition for a long-term lease for pastoral purposes under which all normal outgoings are paid by the lessee.
- (4) After the Valuer-General determines a rent for the lease under subsection (2), the Minister must —
 - (a) adjust the rent in accordance with the regulations to take into account changes in CPI numbers since the previous Valuer-General determination date; and
 - (b) determine that the rent so adjusted is the annual rent payable for the lease.
- (5) A determination under subsection (4)(b) of the annual rent payable for a pastoral lease —
 - (a) comes into effect on a day determined by the Minister, which cannot be a day that is earlier than the day on which the change referred to in subsection (1)(a) or (b) (as the case requires) took effect; and
 - (b) applies until a new determination under subsection (4)(b), section 122H(1) or 123(1)(a) comes into effect in respect of the lease.

- (6) Subsection (5) is subject to sections 112A(2), 127, 134(8), 141(3) and 254.

123B. Determining annual rent when new pastoral lease granted

- (1) If the Minister proposes to grant a pastoral lease under section 101, the Valuer-General must in accordance with subsection (2) determine a rent for the lease.
- (2) For the purposes of subsection (1), the rent for the lease is the amount of ground rent that, as at the previous Valuer-General determination date, the land might reasonably be expected to realise in good condition for a long-term lease for pastoral purposes under which all normal outgoings are paid by the lessee.
- (3) After the Valuer-General determines a rent for the lease under subsection (1), the Minister must —
- (a) adjust the rent in accordance with the regulations to take into account changes in CPI numbers since the previous Valuer-General determination date; and
 - (b) determine that the rent so adjusted is the annual rent payable for the lease.
- (4) A determination under subsection (3)(b) of the annual rent payable for a pastoral lease —
- (a) comes into effect on the day on which the lease is granted; and
 - (b) applies until a new determination under section 122H(1), 123(1)(a) or 123A(4)(b) comes into effect in respect of the lease.
- (5) Subsection (4) is subject to sections 112A(2), 127, 134(8), 141(3) and 254.

61. Section 124A amended

- (1) In section 124A(1) delete the definitions of:

annual rent

determination

- (2) In section 124A(1) insert in alphabetical order:

annual rent, for a pastoral lease, means the annual rent determined by the Valuer-General under section 123(1)(a);

- (3) In section 124A(2):

- (a) delete “determination,” and insert:

determination by the Valuer-General under section 123(1)(a),

- (b) delete “determination.” and insert:

Valuer-General’s determination came into effect.

- (4) Delete section 124A(4) and (5) and insert:

- (4) Regulations made for the purposes of subsection (2) must have the effect that, within a period (the *phase-in period*) not greater than 5 years after the day on which the determination by the Valuer-General under section 123(1)(a) comes into effect in respect of the pastoral lease, the annual rent payable for the pastoral lease is an amount equal to the determined annual rent adjusted in accordance with the regulations to take into account changes in CPI numbers during the phase-in period.

- (5) The Minister must not make a determination under section 122H(1) in respect of the pastoral lease during the phase-in period.

62. Section 124 amended

- (1) Delete section 124(1) and (2) and insert:

- (1) The Board may make it a condition of a permit issued under Division 5 that the annual rent payable for the pastoral lease in respect of which the permit is issued includes an additional rent (the *permit rent*), determined by the Valuer-General under subsection (3) or the Minister under section 122I(2), in relation to that part of the land under the lease that is affected by the permit.

- (2) In section 124(3):

- (a) delete “a” and insert:

the permit

- (b) delete “subsection (1)(b)” and insert:

subsection (1)

- (3) Delete section 124(5) and insert:

- (5) A determination under subsection (3) —

- (a) comes into effect on the day on which the pastoral lessee is notified of the determination;
and

- (b) applies in addition to, and does not affect, a determination under section 122H(1), 123(1)(a), 123A(4)(b) or 123B(3)(b); and
- (c) applies until a new determination under subsection (3) or section 122I(2) comes into effect in respect of the lease.

63. Section 125 amended

- (1) Delete section 125(1) and insert:

- (1A) In this section —

previous determination —

- (a) in relation to a determination by the Valuer-General under section 123(1)(a) of the annual rent, or under section 123A(2) of a rent, for a pastoral lease — means the most recent previous determination of annual rent for the lease under this Division; and
 - (b) in relation to a determination by the Valuer-General under section 124(3) of the permit rent for a pastoral lease — means the most recent previous determination of the permit rent for the lease under this Division.
- (1) A pastoral lessee must pay the rent determined under this Division for a pastoral lease in accordance with the lease and, if the lessee is the holder of a permit issued under Division 5 that is subject to a condition of the kind referred to in section 124(1), the permit.

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(2) In section 125(2):

(a) delete “an assessment of rent or a notice has been given requiring the assessment” and insert:

a determination by the Valuer-General under section 123(1)(a) of the annual rent, under section 123A(2) of a rent, or under section 124(3) of the permit rent, for a pastoral lease or a notice has been given requiring the determination

(b) delete “assessment.” and insert:

determination.

(3) In section 125(3):

(a) delete “an assessment” and insert:

a determination by the Valuer-General under section 123(1)(a) of the annual rent, under section 123A(2) of a rent, or under section 124(3) of the permit rent, for a pastoral lease

(b) after “and the” insert:

pastoral

(4) In section 125(4) after “If a” insert:

pastoral

64. Section 126 amended

In section 126:

(a) delete paragraph (a) and insert:

(a) a determination by the Valuer-General under section 123(1)(a) of the annual rent, under section 123A(2) of a rent, or under section 124(3) of the permit rent, for a pastoral lease; or

(b) delete “assessment or”.

Note: The heading to amended section 126 is to read:

Objections to and review of rent or value of improvements

65. Section 128 replaced

Delete section 128 and insert:

128. Payment of rent may be delayed, reduced or waived in certain cases

(1) The Minister may allow a payment of rent under this Division to be delayed for a specified period, reduced or waived entirely —

- (a) to take into account the occurrence of a drought, fire, cyclone, flood or other disaster that affects the land under 1 or more pastoral leases; or
- (b) to take into account poor economic conditions in the pastoral industry; or
- (c) in prescribed circumstances.

- (2) The Minister may exercise the power under subsection (1) —
 - (a) on the recommendation of the Board under subsection (5) following an application by the lessee under subsection (4) — in respect of a particular pastoral lease; or
 - (b) on the Minister's own initiative or on the recommendation of the Board — in respect of all pastoral leases or pastoral leases of a particular class.
- (3) Before exercising the power under subsection (1) on the Minister's own initiative, the Minister must consult the Board.
- (4) A pastoral lessee may apply to the Board for a delay, reduction or waiver of a payment of rent under subsection (1).
- (5) If the Board is satisfied that the pastoral lessee's application is reasonable in the circumstances, the Board must recommend to the Minister a delay, reduction or waiver that the Board considers appropriate.
- (6) If a pastoral lessee applies under subsection (4) for a delay, reduction or waiver of a payment of rent, the Board may require the lessee to provide any of the following that the Board thinks necessary for proper consideration of the application —
 - (a) if the application relates to the occurrence of a disaster referred to in subsection (1)(a) — evidence of the disaster and its effect on the land under the pastoral lease and the lessee's financial circumstances;

- (b) if the application relates to the economic conditions referred to in subsection (1)(b) — evidence of the effect of those conditions on the lessee's financial circumstances.
- (7) For the purposes of subsection (6), the Board may —
 - (a) require the production of audited or otherwise duly authenticated accounts and any other records of relevant operations and transactions; or
 - (b) require the lessee, or an agent of the lessee, to verify the evidence by statutory declaration.

66. Section 128A inserted

At the beginning of Part 7 Division 7 insert:

128A. Board may direct pastoral lessee

- (1) The Board may give a written direction to a pastoral lessee to comply with 1 or more of the following —
 - (a) a provision of this Part;
 - (b) a provision of the lease;
 - (c) a condition of a permit issued under Division 5 in respect of the lease (including a condition mentioned in section 122D(3)(b)(ii)).
- (2) The direction may require the lessee —
 - (a) to do a thing in relation to any land under the lease, in the manner, and by the date, specified in the direction; or
 - (b) to refrain from doing a thing in relation to any land under the lease.

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- (3) A pastoral lessee must comply with a direction given to the lessee under subsection (1).
- (4) A pastoral lessee must give the Board any information the Board requires in order to be satisfied that the lessee has complied with the direction.

67. Section 129 amended

- (1) In section 129(1):
 - (a) in paragraph (c) delete “set or determination made” and insert:

set, determination made, or direction given
 - (b) in paragraph (ca) delete “in respect of the lease; or” and insert:

under Division 5 in respect of the lease (including a condition mentioned in section 122D(3)(b)(ii)); or
- (2) In section 129(2):
 - (a) delete paragraphs (a) to (c) and insert:
 - (a) give details of the failure to comply; and
 - (b) if the notice relates to a failure to comply with a provision of this Act or the lease, or a condition of a permit, that requires something to be done to the satisfaction of the Board — specify any action that the Board requires the lessee to take in order for the Board to be satisfied; and

- (b) in paragraph (e) delete “paragraph (d) are to” and insert:
- paragraph (b) or (d) must

68. Section 131 amended

In section 131:

- (a) in paragraph (c) delete “set or determination made” and insert:

set, determination made, or direction given

- (b) in paragraph (d) delete “in respect of the lease,” and insert:

under Division 5 in respect of the lease (including a condition mentioned in section 122D(3)(b)(ii)),

69. Section 134A inserted

After section 134 insert:

134A. Transfer of permits

- (1) This section applies if —
- (a) the Minister approves the transfer of a pastoral lessee’s interest in a pastoral lease to another person (the *transferee*) under section 134; and
- (b) the land to which the lessee’s interest relates is affected by a permit issued to the lessee under Division 5; and

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- (c) the transferee has written to the Board to request that the permit be transferred to the transferee; and
 - (d) the lessee is not in breach of any condition of the permit.
- (2) If this section applies, the Board must transfer the permit to the transferee at the time of the transfer of the lessee's interest.
 - (3) The transfer of a permit under subsection (2) does not affect its term or conditions.
 - (4) If the conditions in subsection (1)(a) to (c) are satisfied but the condition in subsection (1)(d) is not satisfied, the Board may issue a new permit under Division 5 to the transferee.

70. Section 143 amended

Delete section 143(9).

71. Section 143A inserted

At the beginning of Part 8 insert:

143A. Term used: grantee

In this Part —

grantee, of an easement, means —

- (a) the grantee of the easement under section 144;
or
- (b) if the easement is transferred under section 147(2), the person to whom the easement is transferred.

72. Section 145 amended

In section 145(1) delete “under section 144”.

73. Section 146 replaced

Delete section 146 and insert:

146. Effect of easements granted under s. 144

Subject to sections 144 and 145, an easement granted under section 144 in respect of Crown land continues to have effect despite —

- (a) the grant of any other interest in the land; or
- (b) the transfer in fee simple of the land; or
- (c) the surrender or other extinguishment of any other interest in the land.

74. Section 147 amended

(1) In section 147 delete “An” and insert:

(1) An

(2) At the end of section 147 insert:

(2) The Minister may, by order, transfer an easement granted as described in subsection (1).

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- (3) If an easement is transferred under subsection (2), the person holding the easement immediately before the transfer is not liable for a breach of any condition to which the easement is subject that occurs after the transfer.

Note: The heading to amended section 147 is to read:

Easements in gross may be granted under s. 144 and transferred

75. Section 150 amended

In section 150(2)(a) delete “under section 144”.

76. Section 151 amended

In section 151(1) delete the definition of *public work* and *work*.

77. Section 170 amended

In section 170(5)(b) delete “certified mail posted” and insert:

registered post (or any similar type of post that is prescribed)
sent

78. Section 177 amended

In section 177(5)(c) delete “certified mail posted” and insert:

registered post (or any similar type of post that is prescribed)
sent

79. Section 190 amended

In section 190(3)(b) delete “certified mail posted,” and insert:

registered post (or any similar type of post that is prescribed)
sent,

80. Section 204 amended

In section 204(1)(a) delete “an instrumentality of the State; and” and insert:

a State instrumentality; and

81. Section 213 amended

In section 213(a)(ii) and (b)(ii) delete “certified mail” and insert:

registered post (or any similar type of post that is prescribed)

82. Part 10A inserted

After section 258 insert:

Part 10A — Information

Division 1 — Sharing of information

258A. Terms used

In this Division —

animal welfare information means —

- (a) information relating to the welfare, safety and health of stock and other animals on land that is under a pastoral lease, diversification lease or other lease; or

- (b) information relating to a contravention, or suspected contravention, by the holder of a pastoral lease, diversification lease or other lease, of a provision of the *Animal Welfare Act 2002* in relation to stock and other animals on land that is under the lease; or
- (c) information relating to any enforcement or other action taken, or proposed to be taken, under the *Animal Welfare Act 2002* in relation to a contravention or suspected contravention referred to in paragraph (b);

authorised officer means —

- (a) the chief executive officer of the Department;
or
- (b) a person designated under section 258B for the purposes of this Division or for the purposes of the provision of this Division in which the term is used;

contact details includes postal address, telephone number, facsimile number and email address;

Crown land interest holder means the holder of —

- (a) an interest in relation to Crown land; or
- (b) a licence;

designated authority means —

- (a) a public authority (other than a Minister of the State); or
- (b) a body that provides to members of the public water services, drainage services, gas services, electricity services or ambulance or other emergency services; or
- (c) a prescribed agency of the Commonwealth;

guidelines means guidelines issued under section 258F(1);

information sharing agency means any of the following —

- (a) the department of the Public Service principally assisting in the administration of the *Aboriginal Affairs Planning Authority Act 1972*;
- (b) the department of the Public Service principally assisting in the administration of the *Aboriginal Cultural Heritage Act 2021*;
- (c) the department of the Public Service principally assisting in the administration of the *Animal Welfare Act 2002*;
- (d) the department of the Public Service principally assisting in the administration of the *Aquatic Resources Management Act 2016*;
- (e) the department of the Public Service principally assisting in the administration of the *Biodiversity Conservation Act 2016*;
- (f) the department of the Public Service principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*;
- (g) the department of the Public Service principally assisting in the administration of the *Bush Fires Act 1954*;
- (h) the department of the Public Service principally assisting in the administration of the *Dampier to Bunbury Pipeline Act 1997*;
- (i) the department of the Public Service principally assisting in the administration of the *Environmental Protection Act 1986*;
- (j) the department of the Public Service principally assisting in the administration of the *Heritage Act 2018*;

- (k) the department of the Public Service principally assisting in the administration of the *Local Government Act 1995*;
- (l) the department of the Public Service principally assisting in the administration of the *Marine and Harbours Act 1981*;
- (m) the department of the Public Service principally assisting in the administration of the *Mining Act 1978*;
- (n) the department of the Public Service principally assisting in the administration of the *Planning and Development Act 2005*;
- (o) the department of the Public Service principally assisting in the administration of the *Rights in Water and Irrigation Act 1914*;
- (p) the department of the Public Service principally assisting in the administration of the *Soil and Land Conservation Act 1945*;
- (q) the Commissioner of Main Roads;
- (r) the Valuer-General;
- (s) the Land Information Authority;
- (t) a public authority prescribed for the purposes of this paragraph;

Land Information Authority means the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5;

land management information —

- (a) means information relating to the use, management or condition of land that is under a pastoral lease, diversification lease or other lease; and

- (b) includes the following —
- (i) information contained in a management plan (whether or not that management plan has been approved by the Board under section 108B(2)(a));
 - (ii) information contained in a report submitted under section 108B(5) or 108C(2)(b);
 - (iii) information relating to activities carried out under a permit issued under Part 7 Division 5;
 - (iv) information relating to improvements on the land, and the condition of those improvements;
 - (v) information relating to stock numbers (if any) or the management and condition of stock;
 - (vi) information relating to declared pests (as defined in the *Biosecurity and Agriculture Management Act 2007* section 6), feral animals or other invasive species;
 - (vii) information relating to a contravention, or suspected contravention, by the holder of the lease of a provision of a land management law that relates to the use, management or condition of the land;
 - (viii) any enforcement or other action taken, or proposed to be taken, under a land management law in relation to a contravention or suspected contravention referred to in subparagraph (vii);

land management law means any of the following —

- (a) the *Biodiversity Conservation Act 2016*;
- (b) the *Biosecurity and Agriculture Management Act 2007*;
- (c) the *Environmental Protection Act 1986*;
- (d) the *Soil and Land Conservation Act 1945*;

officer, in relation to an information sharing agency or prescribed authority —

- (a) means —
 - (i) an officer of the agency or authority; or
 - (ii) a person employed in, by or for the purposes of the agency or authority;

and

- (b) if the agency or authority is the holder of an office, post or position established or continued under a written law — includes that holder;

public authority means —

- (a) a Minister of the State; or
- (b) a department of the Public Service; or
- (c) a State instrumentality; or
- (d) a local government or a regional local government;

relevant information —

- (a) means information that is, or is likely to be, relevant to —
 - (i) the performance by a person of a function under this Act; or
 - (ii) the administration or enforcement of this Act;

and

- (b) includes the following —
 - (i) animal welfare information;
 - (ii) land management information;
 - (iii) valuation information;

valuation information means information that is, or is likely to be, relevant to —

- (a) a determination by the Valuer-General under section 123(1)(a), 123A(2), 123B(1) or 124(3); or
- (b) the performance by the Valuer-General of any other function under this Act; or
- (c) the valuation of Crown land by the Valuer-General.

258B. Designation of authorised officers

The chief executive officer of the Department may, in writing, designate a public service officer of the Department to be an authorised officer —

- (a) generally for the purposes of this Division; or
- (b) for the purposes of a provision of this Division specified in the designation.

258C. Sharing of relevant information between Board and Department

- (1) The Board may, in accordance with the guidelines, disclose relevant information to a public service officer of the Department.
- (2) A public service officer of the Department may, in accordance with the guidelines, disclose relevant information to the Board.

258D. Sharing of relevant information with information sharing agencies

- (1) Subject to subsection (2), the Board or an authorised officer may, in accordance with the guidelines, disclose relevant information to an officer of an information sharing agency.
- (2) The following information must not be disclosed under subsection (1), except to the Valuer-General or a person employed in or by the Land Information Authority who assists in the performance of the Valuer-General's functions —
 - (a) information relating to the amount of rent payable under a pastoral lease (including any permit rent as defined in section 124(1)) that could reasonably be expected to lead to the identification of the pastoral lessee by whom the rent is payable;
 - (b) information relating to a failure to pay rent under a pastoral lease (including any permit rent as defined in section 124(1)) that could reasonably be expected to lead to the identification of the pastoral lessee who has failed to pay the rent.
- (3) The Board or an authorised officer may, in accordance with the guidelines, request an officer of an information sharing agency to disclose to the Board or the authorised officer relevant information that is held by the agency.
- (4) A person to whom a request is made under subsection (3) may disclose the relevant information to the Board or the authorised officer (as the case requires).

258E. Sharing of information about Crown land interest holders with designated authorities and other persons

- (1) An authorised officer may disclose the name and contact details of a Crown land interest holder to —
 - (a) an officer of a designated authority for use in the performance of the designated authority's functions; or
 - (b) the Director General of Mines, as defined in the *Mining Act 1978* section 8(1), for providing the information to —
 - (i) applicants for, or holders of, mining tenements, as defined in that provision; or
 - (ii) any other person who is required, under that Act, to give notice to a Crown land interest holder;or
 - (c) a prescribed person, in the circumstances, and on the conditions, that may be prescribed.
- (2) For the purposes of this section, the Board may disclose to an authorised officer the name and contact details of a pastoral lessee from the most recent return submitted by the pastoral lessee under section 113.
- (3) This section does not limit or otherwise affect the operation of section 258C or 258D.

258F. Guidelines relating to sharing of relevant information

- (1) The chief executive officer of the Department must issue guidelines as to the disclosure of relevant information under sections 258C and 258D(1) and the

requesting of relevant information under section 258D(3).

- (2) The power conferred on the chief executive officer of the Department under subsection (1) to issue guidelines includes the power to amend or revoke those guidelines.
- (3) To the extent that there is an inconsistency between guidelines issued under subsection (1) and regulations made for the purposes of section 258G, the regulations prevail.
- (4) The following must be published in a manner the chief executive officer of the Department considers appropriate —
 - (a) guidelines;
 - (b) amendments made to guidelines;
 - (c) notice of the revocation of guidelines.
- (5) Guidelines are not subsidiary legislation for the purposes of the *Interpretation Act 1984*.

258G. Regulations relating to sharing of relevant information

The regulations may provide for —

- (a) the circumstances in which relevant information may be disclosed under section 258C or 258D(1) or (4); and
- (b) the conditions subject to which relevant information may be disclosed under those provisions; and
- (c) the receipt, use and storage of relevant information disclosed under those provisions; and

- (d) the restriction of access to relevant information disclosed under those provisions; and
- (e) the maximum period for which relevant information disclosed under those provisions may be retained; and
- (f) the circumstances in which relevant information disclosed under those provisions must be destroyed.

Division 2 — Confidentiality and authorised recording, use or disclosure of information

258H. Confidentiality

- (1) A person must not (whether directly or indirectly) record, use or disclose —
 - (a) information obtained because of the person's office, position, employment or engagement under or for the purposes of this Act; or
 - (b) information disclosed to the person under or for the purposes of this Act.

Penalty for this subsection: a fine of \$10 000.

- (2) Subsection (1) does not apply in relation to the recording, use or disclosure of information that is —
 - (a) already in the public domain; or
 - (b) statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) A person does not commit an offence under subsection (1) if the recording, use or disclosure of the information is authorised under section 258I(1).

258I. Authorised recording, use or disclosure of information

- (1) For the purposes of this Act, the recording, use or disclosure of information is authorised if the information is recorded, used or disclosed in good faith —
 - (a) for the purposes of, or in connection with, performing a function under this Act or another law; or
 - (b) in connection with the administration or enforcement of this Act or another law; or
 - (c) as required or allowed under this Act or another law; or
 - (d) for the purposes of any legal proceedings arising under this Act or another law; or
 - (e) under an order of a court or other person or body acting judicially; or
 - (f) with the written consent of the person to whom the information relates; or
 - (g) in other circumstances prescribed by the regulations.
- (2) If the recording, use or disclosure of information is authorised under subsection (1) —
 - (a) no civil or criminal liability is incurred in respect of the recording, use or disclosure; and
 - (b) the recording, use or disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the recording, use or disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

83. Section 264 amended

In section 264(2)(a) delete “reserve or unallocated Crown land” and insert:

reserve, unallocated Crown land or land held by the Crown in fee simple

Note: The heading to amended section 264 is to read:

Limited liability of Crown or management body for damage, injury or loss suffered on, or emanating from, certain land

84. Section 267 amended

(1) In section 267(2):

(a) delete “who,” and insert:

commits an offence if the person,

(b) in paragraph (h) delete “land,” and insert:

land.

(c) delete the passage that begins with “commits an offence” and ends with “\$200.”

(2) At the end of section 267(2) insert:

Penalty for this subsection:

(a) a fine of \$20 000;

(b) a daily penalty of a fine of \$400 for each day or part of a day during which the offence continues.

85. Section 269 amended

Delete section 269(1) and insert:

- (1) A person must not —
- (a) contravene a condition or covenant imposed in respect of Crown land under this Act; or
 - (b) directly or indirectly enter into a transaction relating to Crown land under this Act for the purposes of avoiding a condition or covenant referred to in paragraph (a).

Penalty for this subsection:

- (a) a fine of \$2 000;
- (b) a daily penalty of a fine of \$200 for each day or part of a day during which the offence continues.

Note: The heading to amended section 269 is to read:

Contravention or avoidance of condition or covenant in respect of Crown land

86. Section 270 amended

- (1) In section 270(1) delete the definition of *alleged unauthorised structure*.
- (2) In section 270(1) insert in alphabetical order:

alleged unauthorised structure, in relation to a responsible entity, means a structure that the responsible entity considers to be an unauthorised structure;

responsible entity —

- (a) for a managed reserve, means the Minister or the management body of the reserve; or

(b) for any other Crown land, means the Minister;

(3) In section 270(2):

(a) delete “The Minister” and insert:

A responsible entity for Crown land

(b) after “is on” insert:

the

(4) In section 270(4) and (6) delete “Minister” and insert:

responsible entity

Note: The heading to amended section 270 is to read:

Unauthorised structures on Crown land

87. Section 271 amended

(1) In section 271(1) delete “apply to the Minister under subsection (2)” and insert:

apply, in accordance with subsection (2), to the responsible entity that published the notice

(2) In section 271(2) and (3) delete “Minister” (each occurrence) and insert:

responsible entity

88. Sections 273 to 275A replaced

Delete sections 273 to 275A and insert:

273. Delegation by Minister and chief executive officer of Department of s. 270 and 271 functions

- (1) The Minister may delegate any power or duty of the Minister under section 270 or 271 to —
 - (a) the chief executive officer of the Department;
or
 - (b) an employee of a local government; or
 - (c) an employee within the meaning of the *Public Sector Management Act 1994*.
- (2) A person to whom a power or duty is delegated under subsection (1)(b) or (c) cannot delegate that power or duty.
- (3) The chief executive officer of the Department may delegate to a person referred to in subsection (1)(b) or (c) any power or duty that is delegated to the chief executive officer under subsection (1)(a).
- (4) A person to whom a power or duty is delegated under subsection (3) cannot delegate that power or duty.
- (5) A delegation under this section must be in writing signed by the Minister or the chief executive officer of the Department (as the case requires).
- (6) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (7) Nothing in this section limits the ability of the Minister or the chief executive officer of the Department to perform a function through an officer or agent.

274. Giving documents

- (1) In this section —
electronic means includes —
- (a) an electronic database or document system; and
 - (b) any other means by which a document can be accessed electronically.
- (2) The regulations may make provision for or in relation to the following —
- (a) the giving of a document required or permitted to be given under this Act (including the giving of the document by electronic means);
 - (b) the time at which the document is taken to have been given;
 - (c) the means of satisfying a requirement under this Act in relation to a document in writing (for example, a requirement that the original of a document be given or that a document be signed) if the document is given by electronic means.
- (3) This section applies to a requirement or permission to give a document whether the term “give”, “issue”, “send” or “serve”, or any other similar term, is used.

89. Section 275 amended

In section 275(1):

- (a) in paragraph (b) delete “\$1 000” and insert:

\$2 000

- (b) after paragraph (g) insert:

- (ga) setting out standard pastoral lease conditions;
and

90. Part 14 inserted

After section 284 insert:

Part 14 — Transitional provisions for the *Land and Public Works Legislation Amendment Act 2023*

285. Returns by pastoral lessees

- (1) In this section —

commencement day means the day on which the *Land and Public Works Legislation Amendment Act 2023* section 56 comes into operation;

commencement year means the year in which the *Land and Public Works Legislation Amendment Act 2023* section 56 comes into operation;

existing pastoral lease means a pastoral lease in existence immediately before commencement day;

former section 113 means section 113 as in force immediately before commencement day;

new section 113 means section 113 as amended by the *Land and Public Works Legislation Amendment Act 2023* section 56.

- (2) The first return required to be submitted under new section 113 by the lessee under an existing pastoral lease is the return to be submitted on or before the due date, as defined in subsection (1) of that section, in the second year after the commencement year.
- (3) Despite the *Land and Public Works Legislation Amendment Act 2023* section 56, former section 113 continues to apply so as to require a return to be submitted by the lessee under an existing pastoral lease in relation to, and to the period of 12 months before, 30 June in the commencement year.

286. Annual rent for pastoral leases

- (1) In this section —
commencement day means the day on which the *Land and Public Works Legislation Amendment Act 2023* section 60 comes into operation;
- (2) The annual rent for a pastoral lease that applies immediately before commencement day continues to apply to the lease until a new determination under section 122H(1) or 123A(4)(b) comes into effect in respect of the lease.
- (3) Subsection (2) is subject to sections 112A(2), 127, 134(8), 141(3) and 254.
- (4) A rent determined under section 124(3) that applies to a pastoral lease immediately before commencement day —
 - (a) is taken to be the permit rent (as defined in section 124(1)) for the lease; and

s. 91

- (b) continues to apply to the lease until a new determination under section 122I(2) or 124(3) comes into effect in respect of the lease.

91. Various penalties amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 26A(5)	Penalty: \$1 000 and a daily penalty of \$100.	Penalty for this subsection: (a) a fine of \$2 000; (b) a daily penalty of a fine of \$200 for each day or part of a day during which the offence continues.
s. 71(1) and (2)	Penalty: \$2 000.	Penalty for this subsection: a fine of \$4 000.
s. 71(3)	Penalty: \$1 000.	Penalty for this subsection: a fine of \$2 000.
s. 106(1) and (2)	Penalty: \$10 000.	Penalty for this subsection: a fine of \$20 000.

Provision	Delete	Insert
s. 109(1)	Penalty: \$10 000.	Penalty for this subsection: a fine of \$20 000.
s. 110(1) and (2)	Penalty: \$10 000.	Penalty for this subsection: a fine of \$20 000.
s. 111(4)	Penalty: \$10 000.	Penalty for this subsection: a fine of \$20 000.
s. 130	Penalty: \$50 000, and a daily penalty of \$1 000.	Penalty: (a) a fine of \$90 000; (b) a daily penalty of a fine of \$2 000 for each day or part of a day during which the offence continues.
s. 135(1) and (2)	Penalty: \$10 000.	Penalty for this subsection: a fine of \$20 000.
s. 199(1)	Penalty: \$1 000.	Penalty for this subsection: a fine of \$2 000.
s. 267(3)	\$200	\$400

s. 92

Provision	Delete	Insert
s. 268(1)	Penalty: \$1 000 for a first offence and \$2 000 for any subsequent offence.	Penalty for this subsection: (a) for a first offence, a fine of \$2 000; (b) for a subsequent offence, a fine of \$4 000.
s. 268(2)	Penalty: \$1 000.	Penalty for this subsection: a fine of \$2 000.

92. Various references to gender removed

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 3(1) def. of <i>Minister</i> s. 7(3) s. 42(5) s. 44(2) s. 45(5) s. 49(1) and (2) s. 159 s. 172(6)	his or her	the Minister's

Provision	Delete	Insert
s. 10(4) s. 73 s. 80(4)(c) and (d) and (5) s. 197(1)	him or her	the Minister
s. 13(1) s. 52(4)(b) s. 59(4)(b) s. 134(7) s. 142A(3) s. 150(2) and (5)	he or she (each occurrence)	the Minister
s. 15(3)(c), (6)(d), (11) and (13)(a)	his or her	the covenantor's
s. 39(2)	he or she	the Governor
s. 64(3)(a) s. 262(1)	his or her	the holder's
s. 76(2)	his or her	the mortgagee's
s. 97(1)(b) and (c)	his or her	that chief executive officer's
s. 97(8) s. 99(1) and (2)(a)	his or her	the member's
s. 99(2)(a)	he or she	the member

s. 92

Provision	Delete	Insert
s. 99(5)(a)	him or her	the member
s. 145(2)	him or her	the grantee
s. 160(2)	him or her	them
s. 174	he or she	the Registrar
s. 199(1)(a)	workman he or she has	worker they have
s. 210(5) s. 222(6)	him or her	the Principal Registrar
s. 214(1)	him or her	the claimant
s. 216(1) s. 223(7) s. 224(7)	his or her (each occurrence)	the claimant's
s. 223(2)	he or she	the claimant
s. 223(5)	he or she	the person
s. 224(1) and (2)	his or her	their

Note: The heading to amended section 49 is to read:

Plan for managed reserve

Part 3 — *Public Works Act 1902* amended

93. Act amended

This Part amends the *Public Works Act 1902*.

94. Section 2 amended

- (1) In section 2 delete the definitions of:

local work

public work and *work*

Registrar

- (2) In section 2 insert in alphabetical order:

public work means a work, facility, building, structure or other thing that is —

- (a) declared, or of a class declared, under section 2A to be a public work; or
(b) of a class described in Schedule 1;

95. Section 2A inserted

After section 2 insert:

2A. Governor may declare public work

- (1) The Governor may, by order, declare a work, facility, building, structure or other thing specified in the order, or of a class specified in the order, to be a public work.
- (2) An order under subsection (1) is subsidiary legislation for the purposes of the *Interpretation Act 1984*.

s. 96

96. Section 5 amended

After section 5(3) insert:

- (4) The functions of the Minister are —
 - (a) to undertake, construct, provide, alter, protect, repair or manage any public work; and
 - (b) for the purposes of paragraph (a) —
 - (i) to acquire, hold, take on lease, exchange, amalgamate, subdivide, alter, develop, improve or dispose of land; and
 - (ii) to lease, or grant easements or other interests in or rights over, land acquired, held or taken on lease under subparagraph (i);and
 - (c) any other functions conferred on the Minister under this Act or any other Act.
- (5) The Minister has power to do all things necessary or convenient for or in connection with the performance of the Minister’s functions.

97. Section 5A amended

In section 5A delete “either generally or as otherwise provided by the notice concerned, by notice published in the *Gazette*” and insert:

in writing and either generally or as otherwise provided by the instrument of delegation,

98. Section 5B amended

- (1) In section 5B(1) delete “either generally or as otherwise provided by the notice concerned, by notice published in the *Gazette*” and insert:

in writing and either generally or as otherwise provided by the instrument of delegation,

- (2) In section 5B(2):
- (a) delete “on him”;
 - (b) delete “notice” and insert:

instrument

99. Section 11 replaced

Delete section 11 and insert:

11. Governor may authorise railways

- (1) The Governor may, by order published in the *Gazette*, authorise the Public Transport Authority to undertake, construct or provide a railway.
- (2) The authorisation conferred by an order under subsection (1) is subject to section 96.
- (3) The Governor may, by order published in the *Gazette*, amend or revoke an order under subsection (1).
- (4) An order under subsection (1) or (3) is not subsidiary legislation for the purpose of the *Interpretation Act 1984*.

s. 100

100. Schedule 1 inserted

At the end of the Act insert:

Schedule 1 — Classes of public work

[s. 2]

Item	Description
1.	Works that the Crown, the Governor, the Government of Western Australia, a Minister of the Crown or a local authority is authorised to undertake, construct or provide under this Act or any other Act.
2.	Railways authorised under a special Act or any other works authorised under an Act.
3.	Tramways, light railways, monorails and works for any prescribed means of public passenger transport as defined in the <i>Public Transport Authority Act 2003</i> section 3.
4.	(1) Works for or in connection with the conservation, protection or management of water or water resources. (2) Works for or in connection with any of the following — (a) water supply, including abstraction and reticulation; (b) drainage, including reticulation; (c) the restoration or improvement of, or measures for the prevention of erosion of, rivers, watercourses, lakes or inlets, including deepening, widening and other alteration, disposal of silt and removal of waste or debris; (d) flood prevention or mitigation; (e) sewerage, including reticulation.

Item	Description
5.	(1) Buildings for occupation by either or both Houses of Parliament. (2) Buildings for State government or local government office accommodation. (3) Works for or in connection with space leased or licensed for State government or local government office accommodation.
6.	Health care facilities, including hospitals, hospices, medical clinics, other medical facilities, community health care centres and residential or short-term accommodation facilities for patients and their carers or for staff.
7.	Community residential facilities, including boarding houses, refuges, aged care facilities and facilities for people with a disability or mental illness or subject to social disadvantage.
8.	Scientific facilities, including observatories, research stations, environmental monitoring facilities, laboratories and scientific installations.
9.	Educational and related facilities, including schools, universities, colleges, technical and other educational institutions, teaching establishments, early learning centres, childcare centres, kindergartens, playgrounds and residential accommodation facilities for students attending those facilities or for staff.
10.	Cultural, sporting, tourism and community facilities, including libraries, museums, theatres, art galleries, interpretive centres, entertainment facilities, stadiums and community centres.
11.	Facilities for the Western Australian Mint.

s. 100

Item	Description
12.	(1) Public or community housing and community facilities and amenities, as defined in the <i>Housing Act 1980</i> section 61(2), that are related or incidental to public or community housing. (2) Housing provided under the <i>Government Employees' Housing Act 1964</i> .
13.	(1) Parks and gardens, including botanical gardens and zoological gardens. (2) Recreational or sporting grounds or facilities, including recreational paths or trails. (3) Showgrounds. (4) Racecourses.
14.	Animal pounds (including cat management facilities under the <i>Cat Act 2011</i> and dog management facilities under the <i>Dog Act 1976</i>).
15.	Cemeteries, crematoriums and memorials.
16.	Works for or in connection with the protection or preservation of a place of scientific, heritage, historical, natural, geological, environmental, aesthetic or cultural interest or value.
17.	Works for or in connection with any of the following — (a) the protection or preservation of indigenous flora or fauna; (b) the protection or preservation of wetlands; (c) revegetation for conservation purposes.
18.	Abattoirs, stock saleyards and agricultural saleyards.

Item	Description
19.	<p>(1) Harbours and ports, including storage, handling or wharfage areas and other facilities for or in connection with shipping or boating operations.</p> <p>(2) Wharves, docks, ferry facilities, piers, jetties, bridges, launching ramps, landing places, slips and moorings.</p> <p>(3) Breakwaters, leading marks, navigational aids and lighthouses.</p> <p>(4) Works for or in connection with the provision, improvement or alteration of channels, including the landing and disposal of silt.</p> <p>(5) Port works as defined in the <i>Port Authorities Act 1999</i> section 35(9).</p>
20.	<p>Quarries or works for procuring timber, stone, gravel, earth or any other material required —</p> <p>(a) by or for the State for or in connection with the carrying on of any commercial or industrial undertaking or activity, or any other undertaking or activity, that is being carried on by or for the State under the authority of a written law; or</p> <p>(b) for the construction of, or for any purpose connected with, a public work.</p>
21.	<p>Facilities required for justice or emergency services purposes, including courthouses, prisons, detention centres, watch houses, lock-ups, police stations and other police facilities, fire stations and ambulance depots.</p>
22	<p>Works for or in connection with the establishment or extension of sites for towns.</p>
23.	<p>Roads, bicycle paths, shared paths, stock routes, viaducts, canals, tunnels, weighbridges, roadside testing facilities and roadside amenities.</p>

s. 100

Item	Description
24.	Works for or in connection with the production, generation, transmission, distribution or storage of electricity, gas or any other form or source of energy.
25.	Waste management facilities, including refuse tips, waste transfer stations, waste storage facilities, incinerators and recycling centres and depots.
26.	Airstrip and airport facilities, including runways, taxiways, apron areas, passenger terminals, control towers, security facilities, walkways, busways, car parks, passenger transit facilities, passenger pick-up and set-down areas and servicing facilities.
27.	Biosecurity facilities, including barrier fences and quarantine inspection stations.
28.	Works for or in connection with an Aboriginal community or settlement, including works relating to the provision of essential services (for example, electricity, water or sewerage services), administrative services or emergency services.
29.	Works for or in connection with the reclamation of land for the purposes of a public work.
30.	Surveys and other investigative works for or in connection with a public work.
31.	Works, facilities, buildings, structures and other things that are incidental or ancillary to, or otherwise connected with, a public work.

101. Various references to gender removed

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 5A(a) s. 91(8)	him (each occurrence)	the Minister
s. 5A s. 6	his	the Minister's
s. 7(1) s. 91(9)	he	the Governor
s. 9F(1)	he	it
s. 82(1)(a)	he	the person or authority
s. 83	his	their
s. 83A(2) and (3) s. 83B(2)	he	the authorised person
s. 83A(3)	his (1 st occurrence)	their
s. 83A(3)	him his	the owner or occupier their
s. 83B(2) s. 83C(1)	his	the authorised person's

s. 101

Provision	Delete	Insert
s. 83C(2) s. 90	he (each occurrence)	the person
s. 90 s. 109(3)	him	the person
s. 91(7)	his	the Minister
s. 96(3)	him	the Clerk of the Parliaments
s. 120	workman	worker
s. 120	he has	they have

Note: The heading to amended section 6 is to read:

Rights, liabilities and interests of Minister devolve on Minister's successor

Note: The heading to amended section 120 is to read:

Penalty for obstruction, interference, destruction and similar acts; and recovery of costs

Part 4 — Other Acts amended

Division 1 — *Barrow Island Act 2003* amended

102. Act amended

This Division amends the *Barrow Island Act 2003*.

103. Section 6 amended

In section 6(6) delete “12, 14 and 35(4)(a)(i)” and insert:

12 and 14

104. Section 8 amended

In section 8(5) delete “14, 35(4)(a)(i)” and insert:

14

Division 2 — *Conservation and Land Management Act 1984* amended

105. Act amended

This Division amends the *Conservation and Land Management Act 1984*.

106. Section 3 amended

In section 3 insert in alphabetical order:

diversification lease has the meaning given in the *Land Administration Act 1997* section 92B(1);

pastoral lease has the meaning given in the *Land Administration Act 1997* section 3(1);

107. Section 4 amended

- (1) In section 4(3) after “leases” insert:

or diversification leases

- (2) In section 4(4) delete “pastoral lessees” and insert:

the lessee under a pastoral lease or diversification lease

108. Section 8A amended

Delete section 8A(15) and insert:

- (15) Subsection (16) applies if an agreement made under this section applies to land held under any of the following —
- (a) a pastoral lease;
 - (b) a diversification lease any purpose of which includes the grazing of stock;
 - (c) a lease for grazing purposes granted under the *Land Administration Act 1997*.
- (16) The lessee remains entitled to use the land for grazing purposes in accordance with the lease, except to the extent that the agreement otherwise provides.

109. Section 11 amended

In section 11:

- (a) in paragraph (c) delete “of which pastoral leases are held under Part 7 of the *Land Administration Act 1997*,” and insert:

held under pastoral leases,

- (b) after paragraph (c) insert:

- (ca) land held under diversification leases, subject to the grazing rights of the lessee in the case of a lease any purpose of which includes the grazing of stock; and

110. Section 81 amended

In section 81 in the definition of *public land* delete paragraph (b)(i) and insert:

- (i) land held under pastoral leases and diversification leases; and

111. Section 96 amended

Delete section 96(4)(a) and insert:

- (a) land held under any the following that does not confer on the lessee the right to forest produce —
- (i) a pastoral lease or diversification lease;
- (ii) a forest lease;

- (iii) any other lease;
- and

Note: The heading to amended section 96 is to read:

Effect on leases and mining tenements of permits, licences and contracts as to forest produce

Division 3 — *Duties Act 2008* amended

112. Act amended

This Division amends the *Duties Act 2008*.

113. Section 3 amended

In section 3 insert in alphabetical order:

diversification lease has the meaning given in the *Land Administration Act 1997* section 92B(1);

diversification lessee has the meaning given in the *Land Administration Act 1997* section 3(1);

114. Section 3A amended

In section 3A(1):

- (a) after paragraph (e) insert:

- (ea) a diversification lease;

- (eb) an interest of a diversification lessee under a diversification lease;

- (b) in paragraph (f) delete “mining tenement or pastoral lease),” and insert:

mining tenement, pastoral lease or diversification lease),

115. Section 11 amended

In section 11(4) delete “pastoral lease.” and insert:

pastoral lease or diversification lease.

116. Section 17 amended

In section 17(2)(c) delete “(other than a pastoral lease)” and insert:

(including a diversification lease but not including a pastoral lease)

117. Section 18 amended

In section 18:

(a) in paragraph (c) delete “lease),” and insert:

lease or diversification lease),

(b) after paragraph (c) insert:

(caa) a pastoral lease or diversification lease (the *old lease*), in whole or in part, if —

(i) the surrender of the old lease is made as part of an agreement, arrangement or understanding that a pastoral lease or diversification lease (the *new lease*) be granted to another person; and

(ii) there is, or will be, consideration for the surrender of the old lease; and

- (iii) in the case where the new lease is a pastoral lease, the grant of the new lease under the *Land Administration Act 1997* section 101 is not subject to the payment of a sale price, or, in the case where the new lease is a diversification lease, there is not, and will not be, any consideration for the grant of the new lease;

118. Section 28 amended

- (1) In section 28(3) after “lease” (1st occurrence) insert:

(other than a pastoral lease or diversification lease)

- (2) After section 28(3) insert:

- (3A) The dutiable value of a dutiable transaction that is the surrender of a pastoral lease or diversification lease in the circumstances referred to in section 18(caa) is the consideration for the surrender of the lease referred to in section 18(caa)(ii).

- (3) In section 28(4) delete “lease)” and insert:

lease or diversification lease)

(4) After section 28(4A) insert:

(4B) The dutiable value of a dutiable transaction that is the grant of a diversification lease is the consideration for the grant of the lease.

119. Schedule 1 amended

In Schedule 1 in the item for section 11(1)(g) in column 4 after “surrendered; or” insert:

in the case of a surrender referred to in section 18(caa), the person to whom the new lease is, or is to be, granted in accordance with the agreement, arrangement or understanding; or

Division 4 — *Environmental Protection Act 1986* amended

120. Act amended

This Division amends the *Environmental Protection Act 1986*.

121. Schedule 6 amended

In Schedule 6 item 13:

(a) before “within” insert:

or diversification lease

(b) in paragraph (b) delete “lease; or” and insert:

lease or diversification lease; or

(c) delete paragraph (c) and insert:

(c) in the case of a pastoral lease — any relevant condition set, determination made or direction given by the Pastoral Lands Board under Part 7 of that Act.

Division 5 — *Forrest Place and City Station Development Act 1985* amended

122. Act amended

This Division amends the *Forrest Place and City Station Development Act 1985*.

123. Section 11 amended

(1) In section 11(2):

(a) delete “section 58(1) to (5) of the *Land Administration Act 1997*” and insert:

the *Land Administration Act 1997* section 58(1) to (3)

(b) in paragraph (b) delete “cause the relevant order to be registered” and insert:

lodge the relevant order with the Registrar of Titles for registration

(2) In section 11(3) delete “Section 58(6) of the *Land Administration Act 1997*” and insert:

The *Land Administration Act 1997* section 58(4)

Division 6 — *Land Administration (South West Native Title Settlement) Act 2016* amended

124. Act amended

This Division amends the *Land Administration (South West Native Title Settlement) Act 2016*.

125. Section 12 amended

In section 12(2) delete “50(3)” and insert:

51AA(3)

Division 7 — *Land Tax Assessment Act 2002* amended

126. Act amended

This Division amends the *Land Tax Assessment Act 2002*.

127. Section 8 amended

After section 8(3) insert:

- (4) Subsection (5) applies if land that is the subject of a mining tenement is also the subject of a diversification lease.
- (5) Despite subsection (1), a person is not taken to be the owner of the land for the purposes of section 7 if the person —
 - (a) is the holder of the mining tenement or, if there are 2 or more holders of the mining tenement, one of the holders of the mining tenement; but

- (b) is not the diversification lessee or, if there are 2 or more diversification lessees, one of the diversification lessees.

128. Section 35 replaced

Delete section 35 and insert:

35. Exemption for mining tenements

- (1) Except as provided in subsection (2), land is exempt for an assessment year if a mining tenement is in force for the land at midnight on 30 June in the previous financial year.
- (2) Land is not exempt under subsection (1) for an assessment year if, at midnight on 30 June in the previous financial year —
 - (a) the land is owned in fee simple; or
 - (b) a diversification lease is in force for the land, whether or not the diversification lease is held by the same person or persons who hold the mining tenement.

129. Glossary amended

In the Glossary clause 1 insert in alphabetical order:

diversification lease has the meaning given in the *Land Administration Act 1997* section 92B(1);

diversification lessee has the meaning given in the *Land Administration Act 1997* section 3(1);

mining tenement has the meaning given in the *Mining Act 1978* section 8(1);

Division 8 — *Mining Act 1978* amended

130. Act amended

This Division amends the *Mining Act 1978*.

131. Section 8 amended

- (1) In section 8(1) insert in alphabetical order:

diversification lease has the meaning given in the *Land Administration Act 1997* section 92B(1);

pastoral lease has the meaning given in the *Land Administration Act 1997* section 3(1);

- (2) In section 8(1) in the definition of ***Crown land***:

(a) in paragraph (c)(i) delete “within the meaning of the *Land Administration Act 1997*,”;

(b) after paragraph (c)(i) insert:

(ia) a diversification lease; or

- (3) In section 8(1) in the definition of ***private land***:

(a) delete “within the meaning of the *Land Administration Act 1997*”;

(b) delete “purposes or” and insert:

purposes, a diversification lease or

- (4) After section 8(5) insert:
- (6) A reference in this Act to a lease of Crown land for the use and benefit of the Aboriginal inhabitants includes a lease of Crown land for the social, cultural or economic benefit of Aboriginal persons.

132. Section 16 amended

After section 16(3) insert:

- (4) A provision of a diversification lease over Crown land that is in a mineral field must not be varied so as to alter a purpose of the lease without the approval of the Minister.
- (5) Crown land that is in a mineral field must not be identified in a diversification lease under the *Land Administration Act 1997* section 92C(4) without the approval of the Minister.

Note: The heading to amended section 16 is to read:

Constitution of mineral fields and dealings with Crown land in them

133. Section 20 amended

- (1) In section 20(5):
- (a) after paragraph (d) insert:
- (da) the site of or situated within 100 m of a permanent electrical or fibre optic cable; or
- (db) land under a diversification lease that is the site of, or situated within 100 m of, a substantial structure that —

- (i) is being erected or commissioned; or
- (ii) has been erected and is used, not being a structure previously erected and used for mining purposes by a person other than a lessee of that diversification lease;

or

- (b) in paragraph (e) delete “the subject of a pastoral lease within the meaning of the *Land Administration Act 1997* which” and insert:

under a pastoral lease or a diversification lease that

- (c) in paragraph (e) delete “lease,” and insert:

lease or diversification lease,

- (d) in paragraph (ea) after “paragraph (c)” insert:

or (db)

- (e) in paragraph (f)(iv) delete “ground;” and insert:

ground; or

- (f) after paragraph (f)(iv) insert:

- (v) the site of a permanent electrical or fibre optic cable; or

- (vi) the site of a substantial structure that is being erected or commissioned or that has been erected and is used;

- (2) In section 20(5) after each of paragraphs (a) to (d) insert:

or

- (3) After section 20(5) insert:

- (5AA) Subsection (5) does not apply to land under a diversification lease described in subsection (5)(db) unless the land is identified in the diversification lease under the *Land Administration Act 1997* section 92C(4) for the purposes of this subsection.

134. Section 118 amended

In section 118:

- (a) delete “within the meaning of the *Land Administration Act 1997*”;
- (b) delete “only,” and insert:

only or a diversification lease,

Note: The heading to amended section 118 is to read:

Notice of application to be given to lessee of pastoral lease or diversification lease

135. Section 123 amended

In section 123(7)(a):

- (a) delete “him for pastoral purposes under the *Land Administration Act 1997* or which he holds by virtue of” and insert:

or held by that person under a pastoral lease or

- (b) after “only” insert:

or a diversification lease

Division 9 — *Mining Rehabilitation Fund Act 2012* amended

136. Act amended

This Division amends the *Mining Rehabilitation Fund Act 2012*.

137. Section 10 amended

In section 10(4)(b) delete “pastoral lease (as” and insert:

pastoral lease or diversification lease (as those terms are

Division 10 — *Petroleum and Geothermal Energy Resources Act 1967* amended

138. Act amended

This Division amends the *Petroleum and Geothermal Energy Resources Act 1967*.

139. Section 5 amended

- (1) In section 5(1) insert in alphabetical order:

diversification lease has the meaning given in the *Land Administration Act 1997* section 92B(1);

pastoral lease has the meaning given in the *Land Administration Act 1997* section 3(1);

- (2) In section 5(1) in the definition of **Crown land**:

(a) in paragraph (c)(i) delete “within the meaning of the *Land Administration Act 1997*,”;

(b) after paragraph (c)(i) insert:

(ia) a diversification lease; or

- (3) In section 5(1) in the definition of **private land**:

(a) in paragraph (a) delete “within the meaning of the *Land Administration Act 1997*,”;

(b) after paragraph (a) insert:

(aa) a diversification lease; or

- (4) After section 5(6) insert:

(6A) In this Act, a reference to a lease for the use and benefit of the Aboriginal inhabitants includes a reference to a lease for the social, cultural or economic benefit of Aboriginal persons.

140. Section 21 amended

In section 21(1):

- (a) in paragraph (a) delete “within the meaning of the *Land Administration Act 1997*,”;
- (b) after paragraph (a) insert:
 - (aa) a diversification lease; or

Note: The heading to amended section 21 is to read:

**Compensation payable to certain lessees for damage to
improvements and consequential damage**

141. Section 24 amended

In section 24(1):

- (a) delete “Court” and insert:

Court,

- (b) delete “within the meaning of the *Land Administration Act 1997*, a lease otherwise granted for grazing purposes only,” and insert:

or a lease otherwise granted for grazing purposes only, a
diversification lease,

Division 11 — *Planning and Development Act 2005* amended

142. Act amended

This Division amends the *Planning and Development Act 2005*.

143. Section 4 amended

- (1) In section 4(1) delete the definition of *LAA Department*.
- (2) In section 4(1) in the definition of *public work* paragraph (a) delete “1902;” and insert:

1902 section 2;

144. Section 168 amended

- (1) In section 168(2):
 - (a) delete “The” and insert:

Subject to the *Main Roads Act 1930* and the *Public Works Act 1902*, the

- (b) delete “in” and insert:

of

- (2) In section 168(6) delete “or the LAA Department”.
- (3) In section 168(7):
 - (a) delete “The” and insert:

Subject to the *Main Roads Act 1930* and the *Public Works Act 1902*, the

- (b) delete “in” (1st occurrence) and insert:

of

- (4) In section 168(9) delete “(3)” and insert:
- (3), (5)
- (5) After section 168(9) insert:
- (10) Land referred to in subsection (1), (3), (5) or (6) is subject to any existing encumbrance specified in a direction of the Minister responsible for the administration of the *Land Administration Act 1997*, or a person authorised in writing by that Minister for the purposes of this subsection, lodged with the Registrar of Titles —
- (a) in the case of a scheme plan lodged for registration under the *Strata Titles Act 1985* — at or before the time the Registrar of Titles registers the plan under that Act; or
 - (b) in the case of a diagram or plan lodged with an application for a new certificate or certificates — at or before the time the new certificate, or if more than one, all the new certificates, for the land the subject of the diagram or plan have been registered; or
 - (c) in the case of a plan lodged with an application for registration of a document giving effect to a rounding off or truncation — at or before the time of the registration of that document.

145. Section 191 amended

In section 191(1) delete “section 151(1) of that Act.” and insert:

the *Public Works Act 1902* section 2).

146. Section 195 amended

In section 195(2) delete “section 151(1) of that Act),” and insert:

the *Public Works Act 1902* section 2),

147. Section 197A amended

In section 197A(3) delete “section 151(1) of that Act).” and insert:

the *Public Works Act 1902* section 2).

Division 12 — *Transfer of Land Act 1893* amended

148. Act amended

This Division amends the *Transfer of Land Act 1893*.

149. Section 81T amended

Delete section 81T(3)(b).

Division 13 — *Wittenoom Closure Act 2022* amended

150. Act amended

This Division amends the *Wittenoom Closure Act 2022*.

151. Section 6 amended

In section 6(1) delete “LA Act section 151(1).” and insert:

Public Works Act 1902 section 2.
