



Queensland

Nature Conservation and Other Legislation Amendment Act 2013

Act No. 18 of 2013



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Nature Conservation and Other Legislation Amendment Act 2013

Act No. 18 of 2013

An Act to repeal the Brisbane Forest Park Act 1977 and to amend the Forestry Act 1959 and the Nature Conservation Act 1992 for particular purposes.

[Assented to 29 April 2013]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Nature Conservation and Other Legislation Amendment Act 2013*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) sections 8, 11 and 13;
- (b) section 17, to the extent it inserts definition *ecotourism facility*.

Part 2 Repeal of Brisbane Forest Park Act 1977

3 Repeal

The Brisbane Forest Park Act 1977, No. 56 is repealed.

Part 3 Amendment of Forestry Act 1959

4 Act amended

This part amends the *Forestry Act 1959*.

5 Amendment of s 26 (Restriction on alienation etc.)

Section 26(1A)—

insert—

‘*Note—*

See the *Petroleum and Gas (Production and Safety) Act 2004*, section 437A(1) for the creation of an easement for the holder of a pipeline licence under that Act over land that is a State forest.’

6 Amendment of s 35 (Granting of permit for land within State forest)

(1) Section 35(1)(a)—

omit, insert—

‘(a) permits to occupy for a term fixed by the chief executive (*occupation permits*); or’.

(2) Section 35(2), ‘an occupation permit or’—

omit, insert—

‘a’.

[s 7]

Part 4 **Amendment of Nature Conservation Act 1992**

7 **Act amended**

This part amends the *Nature Conservation Act 1992*.

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

Section 35(1)—

omit, insert—

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

-
- (ii) the use is ecologically sustainable; and
 - (iii) the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values; and
 - (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.'.

9 Insertion of new s 35A

After section 35—

insert—

'35A Chief executive's powers about permitted uses for existing service facilities in national parks or national parks (recovery)

- '(1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park or national park (recovery) if—
 - (a) the use under the authority is only for an existing service facility; and
 - (b) the chief executive is satisfied—
 - (i) the use is ecologically sustainable; and
 - (ii) the use does not include carrying out substantial improvements to the existing service facility.

Examples of a substantial improvement to an existing service facility—

- an upgrade of a road that provides access to a communications tower
 - the replacement of a pipeline with a larger pipeline
- '(2) Subsection (1) applies despite sections 15 and 34(2), and does not limit section 35.
 - '(3) This section does not apply to—

[s 10]

- (a) a national park, or a part of a national park, that is an indigenous joint management area; or
- (b) a national park (recovery), or a part of a national park (recovery), that is an indigenous joint management area.

‘(4) In this section—

existing service facility, for land in a national park or national park (recovery), means a service facility in existence on the land immediately before the land was dedicated as a national park or national park (recovery).’.

10 Amendment of s 36 (Authorities for new national park or national park (recovery))

Section 36(5)(b), ‘section 35’—

omit, insert—

‘sections 35 and 35A’.

11 Amendment of s 42AE (Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land))

Section 42AE(1)—

omit, insert—

- ‘(1) The chief executive and the indigenous landholder for land in a national park (Cape York Peninsula Aboriginal land), may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—
 - (a) the use under the authority is only for a service facility or an ecotourism facility; and
 - (b) if the use under the authority is for a service facility, the chief executive and the indigenous landholder are satisfied—
 - (i) the cardinal principle for the management of national parks will be observed to the greatest possible extent; and

-
- (ii) the use will be in the public interest; and
 - (iii) the use is ecologically sustainable; and
 - (iv) there is no reasonably practicable alternative to the use; and
- (c) if the use under the authority is for an ecotourism facility, the chief executive and the indigenous landholder are satisfied—
- (i) the use will be in the public interest; and
 - (ii) the use is ecologically sustainable; and
 - (iii) the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values; and
- (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the protected area.’.

12 Insertion of new s 42AEA

After section 42AE—

insert—

‘42AEA Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land)

- ‘(1) The chief executive and the indigenous landholder for land in a national park (Cape York Peninsula Aboriginal land), may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—
- (a) the use under the authority is only for an existing service facility; and
 - (b) the chief executive and the indigenous landholder are satisfied—
 - (i) the use is ecologically sustainable; and

[s 13]

- (ii) the use does not include carrying out substantial improvements to the existing service facility.

Examples of a substantial improvement to an existing service facility—

- an upgrade of a road that provides access to a communications tower
- the replacement of a pipeline with a larger pipeline

‘(2) Subsection (1) applies despite sections 15 and 42AD(2), and does not limit section 42AE.

‘(3) In this section—

existing service facility, for land in a national park (Cape York Peninsula Aboriginal land), means a service facility in existence on the land immediately before the land was dedicated as a national park (Cape York Peninsula Aboriginal land).’.

13 **Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)**

Section 42AO(1)—

omit, insert—

- ‘(1) The chief executive and the indigenous landholder for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous joint management area, may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—
- (a) the use under the authority is only for a service facility or an ecotourism facility; and
- (b) if the use under the authority is for a service facility, the chief executive and the indigenous landholder are satisfied—

-
- (i) if the land is in a national park—the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
 - (ii) if the land is in a national park (recovery)—the management principle under section 19A(1)(a) will be observed to the greatest possible extent; and
 - (iii) the use will be in the public interest; and
 - (iv) the use is ecologically sustainable; and
 - (v) there is no reasonably practicable alternative to the use; and
- (c) if the use under the authority is for an ecotourism facility, the chief executive and the indigenous landholder are satisfied—
- (i) the use will be in the public interest; and
 - (ii) the use is ecologically sustainable; and
 - (iii) the use will provide, to the greatest possible extent, for the preservation of the land’s natural condition and the protection of the land’s cultural resources and values; and
- (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the indigenous joint management area.’

14 Insertion of new s 42AOA

After section 42AO—

insert—

‘42AOA Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas

- ‘(1) The chief executive and the indigenous landholder for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous

[s 15]

joint management area, may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—

- (a) the use under the authority is only for an existing service facility; and
- (b) the chief executive and the indigenous landholder are satisfied—
 - (i) the use is ecologically sustainable; and
 - (ii) the use does not include carrying out substantial improvements to the existing service facility.

Examples of a substantial improvement to an existing service facility—

- an upgrade of a road that provides access to a communications tower
- the replacement of a pipeline with a larger pipeline

‘(2) Subsection (1) applies despite sections 15 and 42AN(2), and does not limit section 42AO.

‘(3) In this section—

existing service facility, for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous joint management area, means a service facility in existence on the land immediately before the land was declared as an indigenous joint management area.’

15 Amendment of s 42AP (Authorities for new national park or national park (recovery) that is an indigenous joint management area)

Section 42AP(5)—

omit, insert—

‘(5) This section applies despite sections 15 and 42AN(2), and does not limit sections 42AO and 42AOA.’

16 Amendment of s 141 (Delegation by chief executive)

(1) Section 141(2), from ‘under’—

omit, insert—

‘under a prescribed provision.’.

(2) Section 141—

insert—

‘(3) In this section—

prescribed provision means section 34, 35, 35A, 36, 37, 38, 42AD, 42AE, 42AEA, 42AO, 42AOA, 42AP or 136.’.

17 Amendment of schedule (Dictionary)

Schedule—

insert—

‘***ecotourism facility***, for land, means a facility that—

(a) is designed and managed to facilitate the presentation, appreciation and conservation of the land’s natural condition and cultural resources and values (the ***primary purpose***); and

(b) is managed in a way that does not allow an activity to be carried out on the land that—

(i) is inconsistent with the primary purpose; and

(ii) would require a significant change to the land’s natural condition or would adversely affect the conservation of the land’s cultural resources and values.

Example of an activity for subparagraph (ii)—

the construction of a golf course, amusement park or casino on the land

national park (recovery) means an area dedicated under this Act as a national park (recovery).’.

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