



Queensland

Nature Conservation and Other Legislation (Indigenous Joint Management—Moreton Island) Amendment Act 2021

Act No. 11 of 2021

An Act to amend the Aboriginal Land Act 1991, the Nature Conservation Act 1992, the Recreation Areas Management Act 2006 and the Torres Strait Islander Land Act 1991 for particular purposes

[Assented to 20 May 2021]



Queensland

Nature Conservation and Other Legislation (Indigenous Joint Management—Moreton Island) Amendment Act 2021

Contents

		Page
Part 1	Preliminary	
1	Short title	3
Part 2	Amendment of Aboriginal Land Act 1991	
2	Act amended	3
3	Amendment of s 10 (Lands that are transferable lands)	3
4	Amendment of s 45 (Existing interests)	3
5	Amendment of pt 11, hdg (Indigenous management agreements and land in Cape York Peninsula Region and North Stradbroke Island Region)	5
6	Amendment of s 169 (Entering into indigenous management agreement)	5
7	Amendment of s 170 (Requirements for indigenous management agreement)	6
8	Insertion of new pt 11, div 4	6
	Division 4 Protected areas on Moreton Island	
	175A Prescribed protected areas on Moreton Island are transferable land	6
	175B Requirement about grant of prescribed protected areas on Moreton Island	7
9	Amendment of s 284 (National park subject to lease to State etc.)	7
10	Amendment of sch 1 (Dictionary)	7
Part 3	Amendment of Nature Conservation Act 1992	
11	Act amended	8
12	Amendment of s 35 (Chief executive's powers about permitted uses in national parks)	8

Contents

13	Amendment of s 40 (Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land) . . .	8
14	Amendment of s 42AE (Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land))	9
15	Replacement of s 42AG (Purpose of sdiv 3)	9
	42AG Purpose of subdivision	9
16	Amendment of s 42AH (Declaration of a prescribed protected area as indigenous joint management area)	9
17	Amendment of s 42AI (Declaration of Aboriginal land as indigenous joint management area)	10
18	Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)	10
19	Amendment of s 43G (Service facilities over land in special wildlife reserve)	11
20	Amendment of schedule (Dictionary)	11
Part 4	Amendment of Recreation Areas Management Act 2006	
21	Act amended	12
22	Replacement of pt 4, div 1, hdg (Activities permitted)	12
	Division 1 Preliminary	
23	Insertion of new s 35A	12
	35A Restriction on issuing permits—indigenous joint management areas	12
24	Amendment of s 53 (Additional matters to be considered under s 52)	13
25	Amendment of s 55D (Deciding application to renew permit) . . .	13
26	Amendment of s 70 (Restrictions on entering into commercial activity agreement)	13
27	Amendment of schedule (Dictionary)	14
Part 5	Amendment of Torres Strait Islander Land Act 1991	
28	Act amended	14
29	Amendment of s 41 (Existing interests)	14

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Nature Conservation and Other Legislation (Indigenous Joint Management—Moreton Island) Amendment Act 2021*.

Part 2 Amendment of Aboriginal Land Act 1991

2 Act amended

This part amends the *Aboriginal Land Act 1991*.

3 Amendment of s 10 (Lands that are transferable lands)

Section 10(1)(f), after ‘174,’—

insert—

175A,

4 Amendment of s 45 (Existing interests)

Section 45(4) and (5)—

omit, insert—

(4) However, subsections (5) to (5B) apply if, under an available State land agreement—

(a) an interest in transferable land (the *previous interest*) ends on the grant of the land under this part; and

- (b) a new interest granted by the trustee of the land is to have effect in substitution for the previous interest on the grant of the land.
- (5) Despite subsections (1) to (3), the previous interest ends on the grant of the land.
- (5A) However, if the previous interest was a lease under the Land Act (the *previous lease*) and the interest that is to have effect in substitution for the previous lease is a lease under the Land Title Act (the *new lease*)—
 - (a) despite section 25(3) and the available State land agreement, the previous lease does not end until the new lease is registered in the freehold land register; and
 - (b) the lessee of the new lease must lodge the new lease for registration in the freehold land register immediately after the grant of the land; and
 - (c) if a sublease was in force under the previous lease immediately before the grant of the land, on the grant of the land the sublease continues under the new lease; and
 - (d) subject to paragraph (e) and subsection (5B), the new lease must be registered in the freehold land register subject to the same encumbrances to which the previous lease was subject, and in the same priorities, as recorded in the appropriate register immediately before the grant of the land; and
 - (e) any particulars recorded in the appropriate register for the previous lease immediately before the grant of the land must be recorded in the freehold land register for the land, to the extent the particulars are relevant to the land.

-
- (5B) If an easement that burdened the previous lease was in existence immediately before the grant of the land, on the grant of the land the easement—
- (a) continues in existence, despite the Land Act, section 372; and
 - (b) burdens the land the subject of the new lease; and
 - (c) is taken to have been registered under the Land Title Act, part 6, division 4.

5 Amendment of pt 11, hdg (Indigenous management agreements and land in Cape York Peninsula Region and North Stradbroke Island Region)

Part 11, heading, ‘and North Stradbroke Island Region’—

omit, insert—

, North Stradbroke Island Region and on Moreton Island

6 Amendment of s 169 (Entering into indigenous management agreement)

Section 169(1)(a) and (b)—

omit, insert—

- (a) it is proposed that an entity holds the following land as Aboriginal land—
 - (i) land in the Cape York Peninsula Region;
 - (ii) land in the North Stradbroke Island Region;
 - (iii) land on Moreton Island; and
- (b) the State and the entity agree that the land, or part of the land, is to become—

- (i) for land in the Cape York Peninsula Region—a national park (Cape York Peninsula Aboriginal land); or
- (ii) for land in the North Stradbroke Island Region or on Moreton Island—an indigenous joint management area.

7 Amendment of s 170 (Requirements for indigenous management agreement)

Section 170(1)(b)(ii), after ‘Region’—

insert—

or on Moreton Island

8 Insertion of new pt 11, div 4

Part 11—

insert—

Division 4 Protected areas on Moreton Island

175A Prescribed protected areas on Moreton Island are transferable land

- (1) A prescribed protected area on Moreton Island is transferable land for the purposes of this Act.
- (2) In this section—

excluded protected area means land shown on lots 1 to 7 on DP283833.

prescribed protected area means a national park or conservation park under the *Nature Conservation Act 1992*, other than an area that is an excluded protected area.

**175B Requirement about grant of prescribed
protected areas on Moreton Island**

- (1) This section applies to transferable land mentioned in section 175A.
- (2) Before the land is granted under this Act, the proposed trustee for the land must enter into an indigenous management agreement with the State about the management of the land.
- (3) The grant of the land is subject to the condition that the land must become an indigenous joint management area.

9 Amendment of s 284 (National park subject to lease to State etc.)

Section 284(12), definition *national park*—

omit, insert—

national park does not include a national park—

- (a) in the Cape York Peninsula Region; or
- (b) in the North Stradbroke Island Region; or
- (c) on Moreton Island.

10 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

Moreton Island see the *Nature Conservation Act 1992*, schedule.

Part 3

Amendment of Nature Conservation Act 1992

11 Act amended

This part amends the *Nature Conservation Act 1992*.

12 Amendment of s 35 (Chief executive’s powers about permitted uses in national parks)

Section 35(2)—

omit, insert—

(2) Subsection (1)—

- (a) has effect despite section 15; and
- (b) does not limit, and is not limited by, section 34.

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

Section 40(1)—

omit, insert—

(1) This section applies to land in a national park (the *national park land*) if—

- (a) it is not in the Cape York Peninsula region, North Stradbroke Island Region or on Moreton Island; and
- (b) it becomes Aboriginal land or Torres Strait Islander land.

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

Section 42AE(2)—

omit, insert—

(2) Subsection (1)—

- (a) has effect despite section 15; and
- (b) does not limit, and is not limited by, section 42AD.

15 Replacement of s 42AG (Purpose of sdiv 3)

Section 42AG—

omit, insert—

42AG Purpose of subdivision

The purpose of this subdivision is to provide for the declaration of prescribed protected areas situated in the North Stradbroke Island Region or on Moreton Island as indigenous joint management areas.

16 Amendment of s 42AH (Declaration of a prescribed protected area as indigenous joint management area)

Section 42AH(1)—

omit, insert—

- (1) This section applies to land in a prescribed protected area (the *protected area land*) if—
 - (a) the protected area land is—
 - (i) in the North Stradbroke Island Region;
or
 - (ii) on Moreton Island; and

- (b) the protected area land becomes Aboriginal land; and
- (c) the Minister is satisfied an indigenous management agreement about the management of the Aboriginal land has been entered into.

17 Amendment of s 42AI (Declaration of Aboriginal land as indigenous joint management area)

Section 42AI(1)—

omit, insert—

- (1) This section applies to Aboriginal land that is not a prescribed protected area or included in a prescribed protected area if—
 - (a) the land is—
 - (i) in the North Stradbroke Island Region; or
 - (ii) on Moreton Island; and
 - (b) the indigenous landholder for the land has entered into an indigenous management agreement for it; and
 - (c) the Minister and the indigenous landholder agree that the land is to be managed as an indigenous joint management area.

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

Section 42AO(2)—

omit, insert—

- (2) Subsection (1)—
 - (a) has effect despite section 15; and

- (b) does not limit, and is not limited by, section 42AN.

19 Amendment of s 43G (Service facilities over land in special wildlife reserve)

- (1) Section 43G(3) and (4)—

omit, insert—

- (3) Subsections (1) and (2)—

- (a) have effect despite section 15; and
(b) do not limit, and are not limited by, section 43F.

- (2) Section 43G(5)—

renumber as section 43G(4).

20 Amendment of schedule (Dictionary)

- (1) Schedule—

insert—

Moreton Island means land on Moreton Island that is above the ordinary high-water mark at spring tide.

- (2) Schedule, definition *North Stradbroke Island Region*—

omit, insert—

North Stradbroke Island Region means the parts of the State shown as ‘Area A’ and ‘Area B’ on the map titled ‘NSI 1’—

- (a) approved by the chief executive on 18 March 2011; and
(b) held in digital electronic form by the department; and
(c) available for inspection by the public.

Part 4 **Amendment of Recreation Areas Management Act 2006**

21 Act amended

This part amends the *Recreation Areas Management Act 2006*.

22 Replacement of pt 4, div 1, hdg (Activities permitted)

Part 4, division 1, heading—

omit, insert—

Division 1 Preliminary

23 Insertion of new s 35A

After section 35—

insert—

35A Restriction on issuing permits—indigenous joint management areas

The chief executive may issue a permit for a recreation area situated in an indigenous joint management area only if all requirements relating to issuing the permit under the indigenous management agreement for the area have been satisfied.

Examples of requirements under an indigenous management agreement—

- a requirement to consult with the indigenous landholder
- a requirement to obtain the prior written consent of the indigenous landholder for the issuing of the permit

24 Amendment of s 53 (Additional matters to be considered under s 52)

(1) Section 53(1)(j)—

omit, insert—

- (j) if the proposed permit relates to a recreation area situated in an indigenous joint management area—whether the requirements mentioned in section 35A have been satisfied;
- (k) whether there are any grounds for refusing the application.

(2) Section 53(3), ‘subsection (1)(j)’—

omit, insert—

subsection (1)(k)

25 Amendment of s 55D (Deciding application to renew permit)

Section 55D(1)—

insert—

- (c) for a permit relating to a recreation area situated in an indigenous joint management area—all requirements relating to the permit under the indigenous management agreement for the area have been satisfied in relation to the renewal.

26 Amendment of s 70 (Restrictions on entering into commercial activity agreement)

Section 70(3), after ‘52’—

insert—

, 53

27 Amendment of schedule (Dictionary)

Schedule—

insert—

indigenous joint management area means an area declared under the *Nature Conservation Act 1992* as an indigenous joint management area.

indigenous management agreement see the *Aboriginal Land Act 1991*, schedule 1.

Part 5 Amendment of Torres Strait Islander Land Act 1991

28 Act amended

This part amends the *Torres Strait Islander Land Act 1991*.

29 Amendment of s 41 (Existing interests)

Section 41(4) and (5)—

omit, insert—

- (4) However, subsections (5) to (5B) apply if, under an available State land agreement—
 - (a) an interest in transferable land (the *previous interest*) ends on the grant of the land under this part; and
 - (b) a new interest granted by the trustee of the land is to have effect in substitution for the previous interest on the grant of the land.
- (5) Despite subsections (1) to (3), the previous interest ends on the grant of the land.
- (5A) However, if the previous interest was a lease under the Land Act (the *previous lease*) and the interest that is to have effect in substitution for the

previous lease is a lease under the Land Title Act (the *new lease*)—

- (a) despite section 20(3) and the available State land agreement, the previous lease does not end until the new lease is registered in the freehold land register; and
 - (b) the lessee of the new lease must lodge the new lease for registration in the freehold land register immediately after the grant of the land; and
 - (c) if a sublease was in force under the previous lease immediately before the grant of the land, on the grant of the land the sublease continues under the new lease; and
 - (d) subject to paragraph (e) and subsection (5B), the new lease must be registered in the freehold land register subject to the same encumbrances to which the previous lease was subject, and in the same priorities, as recorded in the appropriate register immediately before the grant of the land; and
 - (e) any particulars recorded in the appropriate register for the previous lease immediately before the grant of the land must be recorded in the freehold land register for the land, to the extent the particulars are relevant to the land.
- (5B) If an easement that burdened the previous lease was in existence immediately before the grant of the land, on the grant of the land the easement—
- (a) continues in existence, despite the Land Act, section 372; and
 - (b) burdens the land the subject of the new lease; and

- (c) is taken to have been registered under the Land Title Act, part 6, division 4.

© State of Queensland 2021